

## **APPENDIX G**

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### **PHASE I ENVIRONMENTAL SITE ASSESSMENT**

**PHASE I ENVIRONMENTAL SITE ASSESSMENT  
BACK BAY LANDING PROJECT, APN 440-132-60  
NORTHWEST CORNER OF EAST COAST HIGHWAY AND BAYSIDE DRIVE  
NEWPORT BEACH, COUNTY OF ORANGE, CALIFORNIA**

Prepared For:

**BAYSIDE VILLAGE MARINA, LLC**

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Los Angeles, CA 90017

Project No. 602668-001

October 19, 2009



**Leighton Consulting, Inc.**

A LEIGHTON GROUP COMPANY



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To: Bayside Village Marina, LLC  
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Attention: Ms. Wendy Glenn

Subject: Phase I Environmental Site Assessment, Back Bay Landing Project, APN 440-132-60, Northwest Corner of East Coast Highway and Bayside Drive, Newport Beach, County of Orange, California

Leighton Consulting, Inc. (Leighton Consulting) is pleased to present this report summarizing a Phase I Environmental Site Assessment for the Subject Property.

Leighton Consulting has the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the Subject Property. Leighton Consulting has developed and performed the all appropriate inquiries in conformance with the standards and practices prescribed in ASTM International (ASTM) E1527-05.

If you have any questions regarding this report, please do not hesitate to contact me. We appreciate the opportunity to be of service.

Respectfully submitted,

LEIGHTON CONSULTING, INC.

Meredith Church, PG  
Project Geologist

Distribution: Addressee (1)  
Mr. Gordon Craig (3)

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## EXECUTIVE SUMMARY

Leighton Consulting, Inc. (Leighton Consulting) performed a Phase I Environmental Site Assessment (ESA) of the Back Bay Landing Project located at the Northwest Corner of East Coast Highway and Bayside Drive, Newport Beach, County of Orange, California (referred to as the “Subject Property” – Figure 1, *Site Location Map*). The purpose of this ESA was to attempt to identify, to the extent feasible pursuant to the processes prescribed in ASTM E1527-05, recognized environmental conditions (RECs) in connection with the Subject Property. Exceptions to, or deletions from, this practice are described in Section 1.5 of the Phase I ESA report. The scope of work for this Phase I ESA included: records review; site reconnaissance; interviews; and report preparation.

The Subject Property appears to have been undeveloped prior to the early 1950's with the exception of Coast Highway. In the early 1950s the Site was developed for marina and dry storage purposes. There is an approved permit to install one 550-gallon gasoline UST in 1955. There is also a permit to install two USTs in 1964, a 550-gallon gasoline UST and a 1,000-gallon gasoline UST. In 1992, two USTs were removed (550-gallon and 1,000-gallon USTs) and there was reportedly determined to be no residual contamination from the two USTs. The historical maps indicate that the 1955 UST was located directly north of the historical orientation of Coast Highway; however, it appeared to have been south of the current orientation of Coast Highway when it was realigned between 1977 and 1985. Maps showing the orientation of the 1964 USTs indicate that they were located to the north of the present orientation of Coast Highway, and it appears to be these that were removed in 1992. There were no records indicating removal or environmental sampling with respect to the 1955 UST.

A correspondence letter provided by the client, dated September 17, 2003, indicated that sampling results from sediment within the bay at the Marina reported DDE/DDT pesticide contamination (concentration not stated), and the applicant was exploring options and requirements for future dredging operations.

A search of selected government databases was conducted by Leighton Consulting using the EDR<sup>®</sup> Radius Report, dated July 22, 2009. The subject property was not identified in any of the databases. One nearby facility was identified in the EDR<sup>®</sup> Radius Reports that appeared to have the potential to negatively impact the subject property. A Mobil gas station at 301 East Coast Highway, located to the southeast of the Subject Property, across East Coast Highway, was reported as a leaking underground storage tank (LUST) site. A gasoline release affected groundwater, remediation occurred, and the facility was granted a “Case Closed” status on July 28, 2005. Groundwater contamination remained at the Mobil site, including methyl tertiary butyl ether (MTBE) at 224 parts per million (ppm); however, the plume was reported to be stable





and limited to the area beneath the gas station facility and a portion of Bayside Drive south of Coast Highway (Orange County Health Care Agency, 2005, Appendix N). Groundwater flow direction is reported to be tidally influenced and is therefore variable. Based on the reported stability and location of the groundwater plume, it has a low potential to have affected the Subject Property; however, there is the potential that large scale dewatering at the Subject Property could draw contaminated groundwater onto the Site.

This assessment has identified the following RECs in connection with the Subject Property:

- A UST was installed in 1955 and there is no documentation regarding environmental sampling or its removal.
- Elevated levels of DDT and DDE have been reported from the sediments in the bay.
- Contaminated groundwater exists to the southeast and there is the potential that dewatering activities could cause migration onto the Subject Property.
- Although not considered a REC; buildings, sheds, and miscellaneous painted features exist on the Subject Property that may have been constructed prior to the early 1980s and there is the potential for asbestos containing materials (ACMs) and/or lead based paint (LBP) to exist in these structures.

Based on the RECs identified, Leighton makes the following recommendations:

- A geophysical survey and soil sampling should be conducted in the vicinity of the UST permitted for installation in 1955.
- If dredging of the bay occurs, disposal requirements for the dredged materials should be confirmed with the appropriate regulatory agencies.
- If dewatering activities occur onsite during future redevelopment, samples should be obtained from the water and analyzed for volatile organic compounds (VOCs) and oxygenates to ensure that they do not exceed applicable discharge requirements.
- Structures that will be demolished at the Subject Property that may possibly contain ACMs or LBP (constructed prior to the early 1980s) should be surveyed for these materials, and if present, should be abated appropriately.
- In general, observations should be made during any future development activities for features of concern or areas of possible contamination such as, but not limited to, the presence of underground facilities, buried debris, waste drums, tanks, soil staining or odorous soils. Further investigation and analysis may be necessary, should such materials be encountered.



## 1.0 INTRODUCTION

### 1.1 Authorization

Leighton Consulting, Inc. (Leighton Consulting) performed a Phase I Environmental Site Assessment (ESA) of the Back Bay Landing Project located at the Northwest Corner of East Coast Highway and Bayside Drive, Newport Beach, County of Orange, California (referred to as the “Subject Property” – Figure 1, *Site Location Map*). The County of Orange refers to the Subject Property as Assessor’s Parcel Number (APN) 440-132-60 (Figure 2 – *Site Plan*). The Phase I ESA was conducted in accordance with our proposal dated June 25, 2009. References are included in Appendix A and Site Photos are included in Appendix B.

### 1.2 Purpose

The purpose of the Phase I ESA was to identify, to the extent feasible and pursuant to the processes prescribed in ASTM International (ASTM) E1527-05, recognized environmental conditions (RECs) in connection with the Subject Property. RECs are defined as: the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. *The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimus conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be de minimus are not recognized environmental conditions (ASTM 1527-05, 2005).*

### 1.3 Scope of Work

The scope of work was performed in accordance with Leighton Consulting’s proposals and included the following tasks:

- A reconnaissance-level visit of the Subject Property for evidence of release(s) of hazardous materials and petroleum products and to assess the potential for onsite releases of hazardous materials and petroleum products;



- Records Review (including review of previous environmental reports, selected governmental databases, and historical review);
- Interviews; and
- Preparation of a report presenting our findings.

#### 1.4 Significant Assumptions

Leighton Consulting assumes that the information provided by the Client, regulatory database provider, and regulatory agencies is true and reliable.

#### 1.5 Limitations and Exceptions

Site-specific activities performed by Leighton Consulting and information collected regarding these activities are summarized in the following sections. The findings of this ESA are presented in Section 7.0. Opinions, and conclusions drawn by Leighton Consulting, based on the information collected as part of the ESA, are presented in Sections 8.0 and 9.0, respectively.

This Phase I ESA was conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

The observations and conclusions presented in this report are professional opinions based on the scope of activities, work schedule, and information obtained through the ESA described herein. Opinions presented herein apply to the conditions of the Subject Property existing at the time of our study and cannot necessarily be taken to apply to conditions or changes of the Subject Property that we are not aware of or have not had the opportunity to evaluate. It must be recognized that conclusions drawn from these data are limited to the amount, type, distribution, and integrity of the information collected at the time of the investigation, the methods utilized to collect and evaluate the data, and that a full and complete evaluation of environmental risks cannot be made. Although Leighton Consulting has taken steps to obtain true copies of available information, we make no representation or warranty with respect to the accuracy or completeness of this information.

This practice does not address whether requirements in addition to all appropriate inquiry have been met in order to qualify for the landowner liability protections including the continuing obligation not to impede the integrity and effectiveness of activity and use



limitations, or the duty to take reasonable steps to prevent releases, or the duty to comply with legally required release reporting obligations. Users should also be aware that there are likely to be other legal obligations with regard to hazardous substances or petroleum products discovered on the Subject Properties that are not addressed in this practice and that may pose risks of civil and/or criminal sanctions for non-compliance.

#### 1.6 Special Terms and Conditions

The scope of work for this Phase I ESA did not include non-scope considerations, such as, but not limited to, those listed in Section 13 of ASTM 1527-05. This scope of work did not include items such as testing of electrical equipment for the presence of polychlorinated biphenyls (PCBs) or collection of other environmental samples, such as, water, soil, building materials, or paint; assessment of natural hazards such as naturally occurring asbestos, radon gas, methane gas, or mold; assessment of the potential presence of radionuclides, biological agents, or lead in drinking water; assessment of indoor air quality (such as vapor intrusion assessment); or assessment of nonchemical hazards such as the potential for damage from earthquakes or floods, or the presence of endangered species or wildlife habitats. This Phase I ESA also did not include an extensive assessment of the environmental compliance status of the Subject Property or of businesses operating at the Subject Property, or a health-based risk assessment.

#### 1.7 User Reliance

This report is for the exclusive use of Bayside Village Marina, LLC. Use of this report by other parties shall be at such party's sole risk.

#### 1.8 Important Information About Geoenvironmental Reports

The Client is referred to Appendix C regarding important information provided by the ASFE on geoenvironmental studies and reports.



## 2.0 SITE DESCRIPTION

### 2.1 Location and Legal Description

The Subject Property is an irregularly shaped parcel and is located northwest of East Coast Highway and Bayside Drive in the City of Newport Beach (Figures 1 and 2). The Subject Property is located within the area designated by the Orange County Assessor's office as APN 440-132-60. The following addresses were found to be associated with the Subject Property: 100, 300, and 300 ½ East Coast Highway, Newport Beach, California. East Coast Highway is also known as Route 1, and is referred to as Pacific Coast Highway from the southern terminus with Interstate-5 in Capistrano Beach north to US 101 near Oxnard, with the exception that its name changes simply to Coast Highway in Newport Beach. Permits for the site were listed under both Pacific Coast Highway and Coast Highway.

### 2.2 Subject Property and Vicinity General Characteristics

The Subject Property consists of an RV/boat storage area, a row of garages/storage units, a kayak rental business, and a marina with related boat docks and parking areas. The surrounding vicinity consists of residential properties, Newport Bay, and commercial/marine business, including a gas station to the southeast across Coast Highway. The layout of the Subject Property and the general vicinity is shown on Figure 2.

### 2.3 Current Uses of the Subject Property

The Subject Property is currently used for marina, kayak rental, and parking purposes, and for the storage of boats, RV's, and other non-hazardous materials.

### 2.4 Descriptions of Structures, Roads and Other Improvements on the Subject Property

The Subject Property is occupied by several structures including, from east to west, a gravel parking lot; a row of garages/storage areas and a restroom with an asphalt paved access road fronting it; several boat docks; an asphalt paved fire and walking lane; and an asphalt paved parking lot on the southwest portion of the Subject Property occupied by several small sheds related to utilities or equipment storage, a restroom, and a mobile trailer office. There are no buildings underneath or to the south of the Coast Highway Bridge; however, kayaks were located on the beach, as well as a storage bin and several water tanks for washing the kayaks.



## 2.5 Current Uses of Adjoining Properties

The adjoining properties are occupied by a mobile home park between portions of the Subject Property, Coast Highway and a water pump station to the south, and parking for marine related infrastructure to the south and to the east. To the north and west of the Subject Property is the lower Newport Bay.



### 3.0 USER PROVIDED INFORMATION

The user of this Phase I ESA is identified as the client, Bayside Village Marina. As a part of the ASTM 1527-05 process, a User Questionnaire regarding the property was forwarded to Mr. Bonnie Bonfanti. The completed User Questionnaire is included in Appendix D.

#### 3.1 Title Records

A title report was provided by Bayside Village Marina for review. Selected Copies from the report that summarize the contents and legal description are included in Appendix E. There were no items in the report that appeared to indicate environmental contamination.

#### 3.2 Environmental Liens or Activity and Use Limitations

Bayside Village Marina was not aware of environment liens or activity or land use limitations for the Subject Property. In addition an Environmental Lien Search conducted by EDR®, included in Appendix F, indicated that there are no environmental liens on the parcel reviewed.

#### 3.3 Specialized Knowledge

Bayside Village Marina LLC is the owner of the property, in addition to being the user of the Phase I. Therefore, refer to section 6.1 for specialized knowledge regarding the property.

#### 3.4 Commonly Known or Reasonably Ascertainable Information

Bayside Village Marina LLC is the owner of the property, in addition to being the user of the Phase I. Therefore, refer to section 6.1 for commonly known or reasonably ascertainable information regarding the property.

#### 3.5 Valuation Reduction for Environmental Issues

Information regarding valuation reduction for environmental issues was not available because a property transaction is not taking place.



### 3.6 Owner, Property Manager, and/or Occupant Information

The owner of the property is identified as Bayside Village Marina, LLC.

### 3.7 Reason for Performing Phase I ESA

The purpose of the Phase I ESA was to identify, to the extent feasible and pursuant to the processes prescribed in ASTM International E1527-05, RECs in connection with the Subject Property and to identify any conditions at the Subject Property that would effect the potential redevelopment of the property.

### 3.8 Other

Bayside Village Marina LLC also provided two previously completed Phase I reports that are discussed in Section 4.3.2, selected building permits that are discussed along with other building permits retrieved from the building department in Section 4.4.7, marina electrical/transformer schematics that are discussed in Section 5.3.3 and Section 4.3.2, surveys for caulerpa and eelgrass that are not discussed in this report, and emails regarding the condition of the sediment in the bay portion of the marina. The emails indicate that sampling and testing conducted prior to 2003 indicate the presence of the pesticides dichlorodiphenyltrichloroethane and dichlorodiphenyldichloroethylene (DDT and DDE) in the Back Bay sediments, the concentrations and full sampling reports were not provided to Leighton Consulting.





## 4.0 RECORDS REVIEW

### 4.1 Physical Setting Source(s)

Leighton Consulting reviewed pertinent maps and readily available literature for information on the physiography and hydrogeology of the Subject Property. A summary of this information is presented in the following subsections.

#### 4.1.1 Topography

The Subject Property is located in Township 6 South, Range 10 West, Section 26 and 27, San Bernardino Baseline and Meridian, within the City of Newport Beach, County of Orange, California. Topographic map coverage was provided in the EDR<sup>®</sup> Historical Topographic Map Report dated July 22, 2009 (Appendix G). Based on the United States Geological Survey (USGS) “Newport Beach” Quadrangle (1965, photorevised 1981) included in the EDR<sup>®</sup> Topographic Map Report, the Subject Property is shown with several docks. No oil or water wells were depicted on the Subject Property. The topography of the general vicinity slopes towards the northwest. The elevation of the Subject Property is approximately 0-10 feet above mean sea level (MSL).

#### 4.1.2 Surface Water

A portion of the Subject Property includes a portion of Newport Bay.

#### 4.1.3 Geology and Soils

According to the Soil Survey of Orange County and Western Part of Riverside County, the Site is located within the soil type of “beaches.” Beaches is described as sandy, gravelly, or cobbly coastal shores that are washed and rewashed by tidal and wave action (United States Department of Agriculture, 1978 & Gradient Engineers, Inc. 2003).

#### 4.1.4 Hydrogeology

Due to the close proximity of Newport Bay, Leighton Consulting assumes the depth to groundwater to be shallow, in the upper 10 feet below ground surface (bgs). Leighton Consulting assumes the groundwater flow direction beneath the Site to be approximately west-northwest with tidal influences, in the direction of



Newport Bay, generally following topography (Gradient Engineers, Inc. 2003). A Case Closure Summary document for the former Mobil Station located to the southeast of the Subject Property reported the groundwater flow direction to be tidally influenced.

#### 4.1.5 Floodplain

According to the Environmental Data Resources Radius Map with Geocheck (EDR<sup>®</sup> Radius Report), the northern spit of the Subject Property is located within the 100-year flood zone. In addition, the EDR<sup>®</sup> Radius Report indicates that the Subject Property is located within national wetlands. The EDR<sup>®</sup> Radius Report is included in Appendix H.

#### 4.1.6 Oil and Gas Fields

The Subject Property is located in Township 6 South, Range 10 West, Section 26 and 27. Leighton Consulting reviewed the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) online Regional Oilfield Map 106 (DOGGR, 2005). The Subject Property is not located within an oil field, however approximately 18 oil and gas wells were identified to be within a 1 mile radius, the nearest of which was approximately 1,500 feet northeast of the Subject Property.

### 4.2 Standard Environmental Record Sources

A search of selected government databases was conducted by Leighton Consulting using the EDR<sup>®</sup> Radius Report, dated July 21, 2009. Details of the database search along with descriptions of each database researched are provided in the EDR<sup>®</sup> Radius Report (Appendix H). The report meets the government records search requirements of ASTM E1527-05 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. The database listings were reviewed within the specified radii established by the ASTM E1527-05.

#### 4.2.1 Subject Property

The Subject Property was not identified in the EDR<sup>®</sup> Radius Report.



#### 4.2.2 Offsite

Federal National Priority List (NPL) List: The Environmental Protection Agency's (EPA) NPL of uncontrolled or abandoned hazardous waste sites was reviewed for sites within a 1.0-mile radius of the Subject Property. To appear on the NPL, sites must have met or surpassed a predetermined hazard ranking system score, been chosen as a State's top priority site, pose a significant health or environmental threat, or be a site where the EPA has determined that remedial action is more cost effective than removal action. The database searches did not identify NPL facilities located within a 1.0-mile radius of the Subject Property.

Delisted NPL List: The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) establishes the criteria the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425.(e), sites may be deleted from the NPL where no further response is appropriate. The database search did not identify delisted NPL facilities located within a 1.0-mile radius of the Subject Property.

Federal CERCLIS List: The EPA's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) listings were reviewed to evaluate if sites within 0.5-miles of the Subject Property are listed for investigation. The CERCLIS database identifies hazardous waste sites that require investigation and possible remedial action to mitigate potential negative impacts on human health or the environment. The database search did not identify State equivalent CERCLIS facilities within a 0.5-mile radius of the Subject Property.

CERCLIS No Further Remedial Action Planned (CERCLIS-NFRAP): As of February 1995, CERCLIS sites designated as NFRAP have been removed from CERCLIS. NFRAP sites may be sites where, following an initial investigation, no contamination was found, contamination was removed quickly without the need for the site to be placed on the NPL, or the contamination was not serious enough to require Federal Superfund action or NPL consideration. EPA has removed approximately 25,000 NFRAP sites to lift the unintended barriers to the redevelopment of these properties and has archived them as historical records so EPA does not needlessly repeat the investigations in the future. This policy change is part of the EPA's Brownfields Redevelopment Program to help cities, states, private investors and affected citizens to promote economic redevelopment of unproductive urban sites. The database search did not identify CERCLIS-NFRAP facilities within a 0.5-mile radius of the Subject Property.



Federal RCRA List: The current RCRA Notifiers List was reviewed to evaluate if RCRA treatment, storage, or disposal sites (TSDs) are located within 0.5-miles of the Subject Property. The database search did not identify RCRA TSD facilities within a 0.5-mile radius of the Subject Property.

The RCRA Corrective Action Sites List is maintained for sites, which are undergoing “a corrective action.” A corrective action order is issued when there has been a release of hazardous waste constituents into the environment from a RCRA facility. The database search did not identify RCRA Corrective Action facilities within a 1.0-mile radius of the Subject Property.

The RCRA regulated hazardous waste generator notifiers list was reviewed to evaluate if RCRA generator facilities are located on properties adjacent to the Subject Property. The database search did not identify small quantity generator facilities located adjacent to the Subject Property.

Department of Toxic Substances Control (HIST CALSITES) Sites: The Department of Toxic Substances Control (DTSC) CALSITES database contains potential or confirmed hazardous substance release properties. The database search did not identify HIST CALSITES facilities within a 1.0 mile radius of the Subject Property.

Solid Waste Landfill Facilities (SWF/LF): This database, provided by the Department of Consumer and Regulatory Affairs, consists of open, as well as closed and inactive solid waste disposal facilities and transfer stations. The database search did not identify SWL sites within a 0.5-mile radius of the Subject Property.

Leaking Underground Storage Tank (LUST) Sites: The EPA maintains lists of information pertaining to reported LUSTs in the state. The database search identified 4 LUST facilities within a 0.5-mile radius of the Subject Property, each facility is discussed below.

1) *Mobil #18-HGK at 301 Coast:* The facility is approximately 0.04 miles southeast of the Subject Property across Coast Highway. The contaminant of concern is gasoline affecting other groundwater (uses other than drinking water). The EDR<sup>®</sup> report and GeoTracker indicated the facility’s status as “Case Closed” on July 28, 2005 (GeoTracker, 2009). Leighton Consulting reviewed the case closure summary uploaded to GeoTracker, the summary



and map indicated that groundwater direction was to the west-southwest and tidally influenced. Groundwater contamination remained at the site, including methyl tertiary butyl ether (MTBE) at 224 parts per million (ppm); however, the plume was reported to be stable and limited to the area beneath the facility and a portion of Bayside Drive, to the south of Coast Highway (OCHCA, 2005). Based on these findings, this facility is expected to have a low potential to adversely affect the Subject Property; however, there is the potential that large scale dewatering at the Subject Property could draw contaminated groundwater onto the Site.

- 2) *Newport Beach Cars LLC at 445 E Coast Highway*: The facility is approximately 0.15 miles south of the Subject Property. The contaminant of concern is gasoline affecting other groundwater (uses other than drinking water). GeoTracker indicated the facility address as both “Case Closed” and as “Open-Verification Monitoring” (GeoTracker, 2009). Leighton Consulting reviewed a report uploaded to GeoTracker, the report indicated that groundwater direction was to the southwest and that contaminant concentrations at the facility are low (Advanced Environmental Concepts, Inc., 2007). Based on these findings, this facility is expected to have a low potential to adversely affect the Subject Property.
- 3) *Former ARCO Service Station Site at 200 Coast*: The facility is approximately 0.16 miles west of the Subject Property. The contaminant of concern is gasoline affecting other groundwater (uses other than drinking water). The EDR<sup>®</sup> report and GeoTracker indicated the facility’s status as “Completed-Case Closed” (GeoTracker, 2009). Based on the distance to the Subject Property and the facility status, this facility is expected to have a low potential to adversely affect the Subject Property.
- 4) *Shell Oil (Former) at 990 Coast*: The facility is approximately 0.5 miles southeast of the Subject Property. GeoTracker indicated that the contaminant of concern is gasoline affecting other groundwater (uses other than drinking water) and the status of the facility as “Open-Verification Monitoring” (GeoTracker, 2009). Leighton Consulting reviewed a report uploaded to GeoTracker, the report indicated that groundwater direction was to the west and that contaminant concentrations at the down-gradient boundary of the facility are low (Wayne Perry, Inc., 2009). Based on these findings and the distance to the Subject Property, this facility is expected to have a low potential to adversely affect the Subject Property.



Underground Storage Tank (UST) Sites: The California State Water Resources Control Board (SWRCB) UST inventory list was reviewed to evaluate if USTs are located on properties adjacent to the Subject Property. The database search identified one UST facility located at 301 East Coast Highway, southeast of the Subject Property across Coast Highway. The facility is identified as Mobil Station (18-HGK) and Newport Coast Inc. A LUST has also been reported at this facility (see above LUST section for additional information).

California Facility Inventory Database (CA FID): The CA FID contains active and inactive underground storage tank locations. The source is the SWRCB. The database search identified one CA FID facility identified as Mobil Station (18-HGK) located at 301 East Coast Highway, southeast of the Subject Property across Coast Highway. A LUST has also been reported at this facility (see above LUST section for additional information).

Historical UST Registered Database (HIST UST): A review of the HIST UST list identified one HIST UST facility located at 301 East Coast Highway, southeast of the Subject Property across Coast Highway. The facility is identified as Redjai's Mobil and Mohammad Ali Redjai. A LUST has also been reported at this facility (see above LUST section for additional information).

Statewide Environmental Evaluation and Planning System (SWEEPS): This underground storage tank listing was updated and maintained by a company contracted by the SWRCB in the early 1980s. The listing is no longer updated or maintained. The local agency is the contact for more information on a site on the SWEEPS list. The database search identified one SWEEPS UST facility identified as Mobil Station (18-HGK) located at 301 East Coast Highway, southeast of the Subject Property across Coast Highway. A LUST has also been reported at this facility (see above LUST section for additional information).

Voluntary Cleanup Program (VCP): The VCP Properties list contains low-threat-level properties with either confirmed or unconfirmed releases and the project proponents have requested that DTSC oversee investigation and/or cleanup activities and have agreed to provide coverage for DTSC's costs. The database did not identify VCP facilities within a 0.5-mile radius of the Subject Property.



ENVIROSTOR: The DTSC's ENVIROSTOR database identifies sites that have known contamination or sites for which there may be reasons to investigate further. The database includes the following site types: Federal Superfund sites (i.e. NPL); State Response, including Military Facilities and State Superfund; VCP; and School sites. ENVIROSTOR provides similar information to the information that was available in CalSites, and provides additional site information, including, but not limited to, identification of formerly-contaminated properties that have been released for reuse, properties where environmental deed restrictions have been recorded to prevent inappropriate land uses, and risk characterization information that is used to assess potential impacts to public health and the environment at contaminated sites. The database did not identify ENVIROSTOR facilities within a 1.0-mile radius of the Subject Property.

Indian Reserve (INDIAN RESERV): The INDIAN RESERV list identifies Indian administered lands of the United States that have an area equal to or greater than 640-acres. The database search did not identify INDIAN RESERV properties within a 1.0-mile radius of the Subject Property.

INDIAN LUST: The INDIAN LUST database lists leaking underground storage tank locations on Indian Land. The database search did not identify INDIAN LUST facilities within a 0.5-mile radius of the Subject Property.

INDIAN UST: The INDIAN UST database lists underground storage tank locations on Indian Land. The database search did not identify INDIAN UST facilities adjacent to the Subject Property.

Unmapped Listings: Several properties were listed within EDR<sup>®</sup> report as "unmapped listings". Unmapped listings are properties without a complete street address and therefore cannot be located on a map. Leighton reviewed these listings and evaluated if the properties were possibly located near the Subject Property, and three were identified. The addresses for these three listings were "Back Bay," "Back Bay/Newport Dunes," and "Newport Beach, Back Bay." The first listing pertained to bilge water that was pumped overboard and subsequently boomed off, the second listing pertained to a boat that ran hard aground at low tide but there was no spill, and the third listing pertained to 15 gallons of diesel fuel that was discharged affecting shell beach and was remediated with sorbent pads. These listings appear to have a low potential to adversely affect the Subject Property. Based on information provided in the EDR<sup>®</sup> report, the other unmapped sites appear unlikely to adversely affect the Subject Property.





### 4.3 Additional Environmental Record Sources

#### 4.3.1 Regulatory Agency Consultations

Leighton Consulting requested regulatory records from the agencies listed below for the following addresses associated with the Subject Property: 100, 300, and 300 ½ East Coast Highway, Newport Beach, Orange County, California on August 3 and 4, 2009.

##### Southern California Air Quality Management District (SCAQMD)

The SCAQMD online Facility Information Detail (FIND) database, a web tool that allows searching for public information regarding SCAQMD-regulated facilities, was reviewed on August 4, 2009, for records associated with the Subject Property. There were no records for 100, 300, or 300 ½ East Coast Highway in the FIND database.

##### Department of Toxic Substance Control (DTSC)

On August 10, 2009, Ms. Glenn Castillo of the DTSC-Chatsworth office indicated via mail that there were no records for 100, 300, or 300 ½ East Coast Highway.

On August 3, 2009, Ms. Jone Barrio of the DTSC-Cypress office indicated via mail that there were no records for 100, 300, or 300 ½ East Coast Highway.

##### Regional Water Quality Control Board (RWQCB)

On August 4, Ms. Lizette Ruiz of the SCP Unit indicated via e-mail that there were no records for 100, 300, or 300 ½ East Coast Highway.

As of the date of this report, no reply has been received from the UST Unit regarding 100, 300, or 300 ½ East Coast Highway. If any records are received that alter the conclusions or recommendations of this report, an addendum will be issued.

On July 28, 2009, Mr. Andrew Veloz of the RWQCB-SLIC 2 Unit indicated via e-mail that there were no records for 100, 300, or 300 ½ East Coast Highway.



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Orange County Sanitation District

On August 18, 2009, Ms. Bea Mitchell (Administrative Assistant, Source Control Division, Orange County Sanitation District) indicated via email that there were no records for 100, 300, or 300 ½ East Coast Highway.

Orange County Health Care Agency (OCHCA)

On August 6, 2009, the OCHCA indicated via mail that there were no records for 100, 300, or 300 ½ East Coast Highway. A previous Phase I ESA reviewed indicated that there was a UST closure report for two USTs removed in 1992 and that a closure was granted by the OCHCA (LFR, 1997). The OCHCA was called again to verify that there was no documentation regarding the UST removal. The OCHCA confirmed that they had no documentation because records for inactive UST sites were purged after 5 years and that digital copies had not been retained until recently. The client was unable to locate the appendix from the previous Phase I that included the tank removal report and closure documentation.

Newport Beach Fire Department (NBFD)

On August 13, 2009, a representative of Leighton Consulting, Ms. Marisa Margaretich, conducted a review of permits for 100, 300, or 300 ½ East Coast Highway at the Newport Fire Department. The files contained numerous permits related to parking, fire lanes, sprinklers, and fire hydrant maintenance and testing. In addition, documents related to hazardous materials or their storage were copied and are included in Appendix I. The documents indicate limited storage of hazardous materials has occurred at the Subject Property, including propane gas cylinders and a 55 gallon drum of solvent waste; a hazardous materials spill occurred from a leaking container on a boat, the material was not specified but the material was boomed off; and a 1992 work plan for the removal of two USTs formerly containing petroleum hydrocarbons utilized for refueling activities at the boat landing.

State of California Radon Survey

The California Department of Health Services (DHS) maintains an online database of California indoor radon levels sorted by zip code. According to this database (as reported in the EDR<sup>®</sup> Radius Reports), 11 radon tests have been conducted within



the zip code of 92660. Of these 11 tests, none have detected radon above the EPA action level of 4 picoCuries per liter (pCi/L) (EDR<sup>®</sup> Radius Map Report, 2009).

In addition, the EDR<sup>®</sup> Radius Report indicates that Orange County is located in EPA Radon Zone 3. According to the EPA, buildings in zone 3 typically have radon levels between <2 pCi/L. The EDR<sup>®</sup> Radius Report also indicates that the average radon activity on the ground floor of residential structures measured from 30 homes within Orange County is 0.763 pCi/L, which is less than EPA's recommended maximum exposure level. Therefore, the potential for elevated levels of naturally occurring radon at the Subject Property appears to be low.

#### 4.3.2 Previous Environmental Assessment Reports

Leighton Consulting reviewed two previous environmental assessment reports as part of this project (Levine Frick Recon, 1997 and IVI International, 2004). Summaries of each of the reports are provided below.

***Phase I ESA, Bayside Village Mobile Home Park, 300 East Coast Highway, Newport Beach, California, Levine Frick Recon (LFR), August 4, 1997.***

No RECs were identified by LFR at the Subject Property. However, the site was determined to have asbestos containing materials (ACMs) and the recommendation of the report was to safely maintain the materials under an Operations and Maintenance (O&M) Program rather than conducting abatement. The report also noted the removal of two USTs, reported to be installed in 1955 and removed in 1992, with samples collected during the removal that did not indicate residual contamination. Further, the report indicated that the OCHCA considered the UST case closed with no further action required. In addition to the USTs, the report noted transformers onsite that were owned by the subject property. The report indicated that the transformers appeared upon report and observation to be dry-type transformers free of internal cooling fluids with no indications of leaks or spills. Finally, the report noted that given the age of the buildings, there is a potential for lead based paint (LBP) and therefore recommended in the absence of further investigation that damaged areas be repaired. The report indicated that building permits were reviewed; however, no mention was made regarding the installation of one UST in 1955 and two additional USTs in 1964. It appears that the closure report reviewed indicated that the USTs removed had been installed in 1955; however, based on the current review of the building permits, this information may be inaccurate and it appears that the USTs removed in 1992 had been installed in 1964.



***Phase I ESA, Bayside Village, 300 East Coast Highway, Newport Beach, California, IVI International, Inc., June 16, 2004.***

This report pertained to the mobile home park adjacent to the Subject Property. No RECs were identified for the mobile home park. Findings included ACMs and LBP which were recommended to be mitigated through an O&M Program. IVI reviewed the Phase I ESA prepared by LFR in 1997 that stated two USTs had been removed in 1992 and that closure had been granted by the OCHCA; however, at the time of the report, no information had been obtained from the NBFD or the OCHCA. It also does not appear that a review of the building permits was conducted and no information pertaining to USTs permitted at the Subject Property address was mentioned with the exception of the LFR report.

#### 4.4 Historical Use Information on the Property

Leighton Consulting reviewed selected historical information on the Subject Property. These references were reviewed for evidence of activities, which would suggest the potential presence of hazardous substances at the Subject Property and to evaluate the potential for the Subject Property to be affected by offsite sources of contamination. The following paragraphs are a chronological summary of the review.

##### 4.4.1 Aerial Photographs

Historical aerial photographs were reviewed using the EDR<sup>®</sup> Aerial Photo Decade Package, dated July 24, 2009, for information regarding past site uses. Copies of the aerial photographs are included in Appendix J.

**1927:** The original configuration of Coast Highway transects the Subject Property to the north of Coast Highway's present-day configuration. The Subject Property and surrounding area appear to be undeveloped.

**1938 and 1947:** The configuration of Coast Highway depicted in the 1927 photograph has moved to the south, a remnant of the older configuration is still visible. Coast Highway now appears to be adjacent to the Subject Property to the south. Portions of the Subject Property that are underwater in the present day are at this time indicated to be land, which portions are land or water changes slightly in the two photographs. There does not appear to be any structures on the Subject Property. The surrounding area appears to be preparing for development in 1938



and in 1947 numerous small structures are visible that appear to be residential and commercial in addition to the numerous docks that are visible.

**1953:** The configuration of Coast Highway is the same as in 1938 and 1947; a remnant of the older configuration of Coast Highway is still visible. Portions of the Subject Property that are underwater in the present day are at this time indicated to be land. On the western most edge of the subject Property just north of Coast Highway is a dock, a beach, what appears to be parked cars, and two small buildings, which a plan from the building permit department appears to indicate are utilized for restrooms and showers. There is also what appears to be a dirt access road paralleling the northern border of Coast Highway leading to this area. The surrounding areas development does not appear to have changed much since 1947.

**1968 and 1977:** The configuration of Coast Highway is the same as in 1953. The Subject Property is configured as a marina with a boat ramp between two “T” docks on the west side of the property and a spit of land to the north and west surrounding water with ten docks extending into the water perpendicular to the shore and two docks running mostly parallel to the shore. The photographs appear to indicate a road on the eastern edge of the Subject Property adjacent to a long narrow structure that appears to be the row of garages currently on the subject property. In addition, the photographs indicate a road extending from Bayside Drive parallel to Coast Highway in the southern portion of the property with what appears to be vehicle/marine/boat storage between the road and the Coast Highway. The surrounding area continues to appear largely residential and commercial with numerous marinas, but there has been additional development from previous time periods.

**1990, 1995, 2002, and 2005:** The road (Coast Highway) depicted in 1977 has moved slightly northward with the installation of a new bridge and is now through the Subject Property. The Subject Property is still configured as a marina. The west side of the Subject Property appears to have been reconfigured with one new small dock and two new “T” docks. The spit of land to the north and west, the docks the spit of land surrounds, the road and narrow structure on the eastern portion of the Subject Property, and the road extending from Bayside appear unchanged from the 1977 photograph. What appears to be vehicle/marine/boat storage continues to be between the road and the Coast Highway. The surrounding areas development does not appear to have changed much since 1977.



#### 4.4.2 Historical Topographic Maps

Historical topographic maps, provided in the EDR<sup>®</sup> Historical Topographic Map Report dated July 21, 2009, were reviewed for information regarding past site uses. Copies of the maps have been provided in Appendix G.

**1901, 1901, and 1902:** The Subject Property appears to be undeveloped. The surrounding area appears to be extremely sparsely developed. The scale of these three maps is quite small with limited detail.

**1951:** There is a road (Coast Highway) adjacent to the south and partially through the Subject Property. Portions of the Subject Property that are underwater in the present day are at this time indicated to be land. Other than the Coast Highway which partially transects the Subject property there does not appear to be any structures on the Subject Property. The surrounding area has numerous small structures that appear to be residential.

**1965, 1972, and 1981:** The same road (Coast Highway) depicted in 1951 continues adjacent to the south and partially through the Subject Property. The Subject Property is configured as a marina with three docks on the west side of the property, a spit of land to the north and west surrounding what is indicated on the maps as “Mud”, and nine more docks in within the area indicated as “Mud”. The maps also indicate a road on the eastern edge of the Subject Property and no other structures. The surrounding area appears largely residential and commercial with numerous marinas.

#### 4.4.3 Fire Insurance Maps

Fire insurance maps, or Sanborn<sup>®</sup> maps, are detailed city plans showing building footprints, construction details, use of structure, street address, etc. The maps were designed to assist fire insurance agents in determining the degree of hazard associated with a particular property. Sanborn Maps were produced from approximately 1867 to the present for commercial, industrial, and residential sections of approximately 12,000 cities and towns in the United States. A copy of the report has been provided in Appendix K. Sanborn maps for the Subject Property were not found.



#### 4.4.4 Historical City Directories

City Directories have been published for cities and towns across the US since the 1700s. Originally a list of residents, the City Directory developed into a tool for locating individuals and businesses in particular. For each street address listed, the directory recorded the name of the resident or business that operated from this addresses. While City Directory coverage is usually comprehensive for major cities, it may be sporadic for rural areas and small towns. The purpose of the City Directory research was to attempt to determine the businesses that were historically located onsite.

City Directory information obtained for the Subject Property and surrounding vicinity is included in the EDR<sup>®</sup> City Directory Abstract dated August 4, 2009 (Appendix L).

According to the City Directory Abstract, the Subject Property was occupied by numerous entities. 100 East Coast Highway was occupied by Bay Shore Boat Rentals (1955); Lyman Boats Small Craft (1966); CATS (1970); Trawler Yachts Inc. (1980); Nadm C K (1986); and Bayside Village, Sales Office, and numerous individual names (2002). 300 East Coast Highway is the primary address for the adjacent mobile home park and is sometimes associated with the Subject Property. There are numerous listings that appear to be residential for this address and the listing of Bayside Village or De Anza Bayside Village/Marina appears frequently due to the fact that it is the office for the mobile home park and the marina. Listings that did not appear to be individual names were: J&Assoc Pacesetter (2002), Alanar Corporation (1995), Garrison Stephen Computer Consultant (1986), Boat Launch (1980), Herald Examrin Los Angeles Main Office (1980), Pearsons Port (1975, 1980, 1986, 1995) Environmental Research and Technology Inc. (1980), Newport Tire Center (1980), Kings Outboard Marine Service (1975), Marine Bilge Systems (1975), Bayside Boat Launching and Bayside Village Boat Launching (1970), Bi Rite Beauty Supply (1970), Meek John L Construction Co Inc. (1970), and Macgregor Le Shearson Hammill & Co Inc stk & bond brkrs (1966).

#### 4.4.5 Property Tax Files

Property tax files were not reviewed for the Subject Property because they were not reasonably obtainable.



#### 4.4.6 Recorded Land Title Records

Title documents were provided by Bayside Village Marina for review and selected documents are included in Appendix E. A 50-year chain of title report was not reviewed; however, an environmental lien search was conducted and no liens or activity and use limitations were reported for the parcel reviewed (Appendix F).

#### 4.4.7 Building Department, Zoning and/or Land Use Records

On August 18, 2009, building permits were viewed for the 100 and 300 East Coast Highway at the City of Newport Beach's online permit repository.

There were numerous permits for the Subject Property and for the adjacent mobile home park that shares the same address (300 East Coast Highway). The permits for the Subject Property included items related to temporary banners, repairs of the dock tie-backs, and various utility repairs. In addition, there were several permits related to USTs. For the 100 East Coast Highway address, there was an approved permit for Ralph T. Duke to install one 550 gallon UST for gasoline storage from 1955 with the stated purpose to be used for outboard motor fuel. There were also approved permits for Mobile Oil Co. to install two gasoline storage USTs in 1964 with capacities of 1,000 and 550 gallons and for Small Craft Company to operate the two USTs from 1964. For the 300 East Coast Highway address, there was an approved permit for Bayside Boat Launch to operate the two gasoline storage USTs with capacities of 1,000 and 550 gallons from 1971 with a stated purpose of boat launching business. In addition for 100 East Coast Highway, there was a Workplan to remove two USTs by McLaren Hart, a permit from the OCHCA to remove the two tanks, and a backfill compaction report for the removal of the two tanks from 1992. Refer to Section 4.3.2 for further information regarding the removal of these tanks. The building permits regarding USTs at the Subject Property are included in Appendix M. All of the building permits reviewed are included in Appendix M of the portable document format (PDF) version of this report provided on compact disc (CD).

#### 4.4.8 Other Historical Sources

Additional resources were not researched as a part of this assessment.





#### 4.4.9 Prior Assessment Usage

No prior assessments, other than those discussed in Section 4.3.2, were reviewed as part of this study.

#### 4.4.10 Summary of Historical Land Use

Years	Subject Property	Surrounding Area
Prior to 1927	The Subject Property and the surrounding area appear to be undeveloped with the exception of Coast Highway, which transects the Subject Property.	
1927 to 1947	Between 1927 and 1938 the configuration of Coast Highway is moved to the south in close proximity to its present configuration, and is partially adjacent to and partially transecting a small portion of the Subject Property. The remainder of the Subject Property is undeveloped.	The surrounding area appears to be preparing for development in 1938, and in 1947 small structures and numerous docks are visible.
1947 to 1981	Between 1947 and 1953 the Subject Property is first developed with a dock, beach, parking lot, restrooms/showers, and access road just north of Coast Highway. Between 1953 and 1968, the Subject Property develops further with a boat ramp between two “T” docks, ten other docks, long narrow building that appears to be the row of garages, an access road, and marine/vehicle storage. During this time there is a permit to install one UST in 1955 and a permit to install two USTs in 1964. There is a permit to operate the two USTs in 1964 by Small Craft Co. and in 1971 by Bayside Boat Launch.	Largely small structures that appear residential and/or commercial and marinas. The density of these developments increases overtime. The Mobile Home park directly adjacent to the Subject Property develops in the early 1960s.
1981 to Present	Between 1981 and 1990 Coast Highway has moved slightly to its present configuration with the installation of a new bridge over the bay. In addition, the west end of the Marina has been reconfigured with the boat ramp and the two “T” docks were replaced with three new ones. The remaining Subject Property usage remained the same. In 1992, two USTs were removed and the case was considered closed by the OCHCA.	Similar to before 1977.





## 5.0 SITE RECONNAISSANCE

### 5.1 Methodology and Limiting Conditions

On July 15, 2009, representatives of Leighton Consulting, Ms. Meredith Church, a licensed Professional Geologist, and Marisa Margaretich, conducted a reconnaissance-level assessment of the Subject Property, with the assistance of Mr. Gordon Craig, the site contact. The site reconnaissance consisted of the observation and documentation of existing conditions at the Subject Property and nature of the neighboring property development within 0.25-miles of the Subject Property. Photographs of the Subject Property are presented in the Photo Document (Photo Nos. 1-14), Appendix B, and their view directions and items observed during the site reconnaissance are noted on Figure 2.

### 5.2 General Site Setting

The Subject Property consists of an RV/boat storage area (Photos 9 and 10), a row of garages/storage units (Photo 2), a rental business for water recreational activities (Photo 3), and a marina (Photo 1), with related boat docks and parking areas. The surrounding vicinity consists of residential properties, Newport Bay, a water pump station, and commercial/marine business, including a gas station to the southeast. The layout of the Subject Property and the general vicinity is shown on Figure 2.

### 5.3 Exterior and Interior Observations

#### 5.3.1 Hazardous Substances, Drums, and Other Chemical Containers

Hazardous substances, drums, and chemical containers were not observed on the Subject Property.

#### 5.3.2 Underground Storage Tanks (USTs) and Aboveground Storage Tanks (ASTs)

No USTs or ASTs were observed on or around the Subject Property.



### 5.3.3 Polychlorinated Biphenyls (PCBs)

Evidence of PCBs was not observed on, or around, the Subject Property with the exception of several transformers that are owned by the Subject Property (Photos 11-13). The transformers appeared to be in good working order with no apparent leakage. In addition, a previous Phase I noted that the transformers were dry type transformers free of internal cooling fluids with no indications of leaks or spills (LFR, 1997).

### 5.3.4 Waste Disposal

Evidence of waste disposal was not observed on the Subject Property.

### 5.3.5 Dumping

Several large dumpsters were observed on the Subject Property. No staining was observed around the trash receptacles (Photo 14).

### 5.3.6 Pits, Ponds, Lagoons, Septic Systems, Wastewater, Drains, Cisterns, and Sumps

Evidence of pits, ponds, lagoons, septic systems, wastewater, cisterns, and sumps was not observed at the Subject Property. A drain, which appeared to be for storm water, was observed south of East Coast Highway (Photo 5).

### 5.3.7 Pesticide Use

Pesticide use was not observed on the Subject Property.

### 5.3.8 Staining, Discolored Soils and/or Corrosion

No stained, discolored, or corroded soils were observed. The majority of the subject property is covered in asphalt or water.

### 5.3.9 Stressed Vegetation

Stressed vegetation was not observed on the Subject Property.

### 5.3.10 Unusual Odors

Unusual odors were not detected on the Subject Property.



#### 5.3.11 Onsite Wells

Oil, gas production, or groundwater monitoring wells were not observed or reported at the Subject Property.

#### 5.3.12 Other Observations

No other environmentally pertinent observations were made at the Subject Property.



## 6.0 INTERVIEWS

Leighton Consulting conducted interviews with persons having knowledge of current or past Subject Property usage. Interviews were conducted either orally or in the form of a written questionnaire. See Appendix D for the completed Interview Forms.

### 6.1 Interview with Owner/Site Contact

The Subject Property is owned by Bayside Village Marina LLC. Ms. Bonnie Bonfanti, on behalf of Bayside Village Marina LLC, faxed to Leighton Consulting the Phase I ESA Owner/Site Contact Interview Form. Bayside Village Marina LLC has been the owner since 1997, and leased the land from the Irvine Company prior to that time. The property was indicated to be marina slips and dry storage, and the previous use was indicated to be vacant land. Hazardous materials at the Subject Property were indicated to be ACMs that are managed by an O&M program and USTs that were indicated to have been removed in 1992. No other features of potential environmental concern were indicated to be on the Subject Property. A previous Phase I investigation of the Subject Property was indicated to have occurred in 1997, this report is discussed in Section 4.3.2. In addition, the interview form indicates that numerous soil tests have been conducted in the Marina by the city, the information provided to Leighton Consulting is discussed in Section 3.8.

### 6.2 Interview with Site/Property Manager

See Section 6.1.

### 6.3 Interviews with Occupants

See Section 6.1.

### 6.4 Interviews with Local Government Officials

Leighton Consulting did not interview employees with local government agencies to request information regarding historic and current uses of the Subject Property with the exception of those noted in Section 4.2.

### 6.5 Interviews with Others

No other persons were interviewed regarding the Subject Property with the exception of the User questionnaire reviewed in Section 3.0.



## 7.0 FINDINGS

Leighton Consulting conducted a Phase I ESA of the Back Bay Landing Project located at 100, 300, and 300 ½ East Coast Highway in the City of Newport Beach, County of Orange, California (referred to as the “Subject Property” – Figure 1, *Site Location Map*).

### 7.1 Onsite

The Subject Property appears to have been undeveloped prior to the early 1950's with the exception of Coast Highway. In the early 1950s the Site was developed for marina and dry storage purposes. There is an approved permit to install one 550-gallon gasoline UST in 1955. There is also a permit to install two USTs in 1964, a 550-gallon gasoline UST and a 1,000-gallon gasoline UST. In 1992, two USTs were removed (550-gallon and 1,000-gallon USTs) and there was reportedly determined to be no residual contamination from the two USTs. The historical maps indicate that the 1955 UST was located directly north of the historical orientation of Coast Highway; however, it appeared to have been south of the current orientation of Coast Highway when it was realigned between 1977 and 1985. Maps showing the orientation of the 1964 USTs indicate that they were located to the north of the present orientation of Coast Highway, and it appears to be these that were removed in 1992. There were no records indicating removal or environmental sampling with respect to the 1955 UST.

A correspondence letter provided by the client, dated September 17, 2003, indicated that sampling results from sediment within the bay at the Marina reported DDE/DDT pesticide contamination (concentrations not noted), and the applicant was exploring options and requirements for future dredging operations.

A search of selected government databases was conducted by Leighton Consulting using the EDR<sup>®</sup> Radius Report, dated July 22, 2009. The subject property was not identified in any of the databases.

The construction date of the buildings, sheds, and miscellaneous painted features that exist on the Subject Property is uncertain; however, some of them may have been constructed prior to the 1980s and may contain asbestos containing materials (ACMs) and/or lead based paint (LBP).



## 7.2 Offsite

Historically and currently, the adjacent properties have been occupied by the bay, a mobile home park, a water pump station, and other commercial businesses, including a gas station to the southeast across Coast Highway.

A Mobil gas station is located approximately 0.04 miles southeast of the Subject Property across Coast Highway. The contaminant of concern is gasoline affecting other groundwater. The EDR<sup>®</sup> report and GeoTracker indicated the facility's status as "Case Closed" on July 28, 2005 (GeoTracker, 2009). Leighton Consulting reviewed the case closure summary uploaded to GeoTracker, the summary and map indicated that groundwater direction was to the west-southwest and tidally influenced. Groundwater contamination remained at the site, including MTBE at 224 ppm; however, the plume was reported to be stable and limited to the area beneath the facility and a portion of Bayside Drive (OCHCA, 2005).

## 7.3 Data Gaps

ASTM E 1527-05 requires review of standard historical sources (SHS) at approximate five-year intervals from at least 1940 to the present, or the earliest development of the site. The availability of extensive historical information varies significantly between locations and it is common to have gaps in the data for one or more of the periods where historical property uses are unknown or uncertain. There is also a potential for unidentified uses to have occurred between data points, or prior to the earliest acquired data.

A previous Phase I ESA indicated that two USTs had been removed in 1992 and that soil sampling did not detect residual contamination and that the case was closed by the OCHCA. This report was not available for review; however, the information is assumed to be reliable from the previous Phase I ESA and this data gap is not considered to be significant.

There appears to have been a UST installed in 1955 and two USTs installed in 1964; however, there is only removal information for two USTs and no additional information was available regarding sampling or removal of the potential third UST. This data gap is considered significant.



## 8.0 OPINION

### 8.1 Onsite

It is Leighton Consulting's opinion that there is potentially a 550 gallon UST remaining at the Subject Property that constitutes a REC, see Figure 2 for the approximate location. There is the potential that the UST was previously removed during the realignment of East Coast Highway in the late 1970s or early 1980s, or at some other point in time; however, no records of environmental sampling or removal was reported in previous reports or regulatory agency records.

Small quantities of hazardous materials use at the Subject Property were noted in the Nbfd records, in addition to several small spills on boats in the marina that were reportedly cleaned. Based on the information reviewed and the site inspection, the small quantities of hazardous materials used at the Subject Property is considered to have a low potential to adversely impact construction plans.

### 8.2 Offsite

It is Leighton Consulting's opinion that no offsite locations were identified that appeared likely to have affected the Subject Property; however, a large-scale dewatering project could potentially draw contaminated water onsite from the Mobil gas station LUST site to the southeast of the across Coast Highway.



## 9.0 CONCLUSIONS

Leighton Consulting conducted a Phase I ESA of the Back Bay Landing Project located at 100, 300, and 300 ½ East Coast Highway in the City of Newport Beach, County of Orange, California (referred to as the “Subject Property” – Figure 1, *Site Location Map*). The purpose of this ESA was to attempt to identify, to the extent feasible pursuant to the processes prescribed in ASTM E1527-05, RECs in connection with the Subject Property.

Site plans associated with permits appear to indicate that a UST installed in 1955 was located to the south of the current orientation of East Coast Highway. Based on site plans associated with permits associated with two USTs installed in 1964, they appear to have been located to the north of East Coast Highway and are located in the area where two USTs were removed in 1992. Based on permits and maps for the installation of three USTs and the documented removal of only two USTs, there is the potential that one UST may exist at the Subject Property.

Based on the location of a gasoline impacted groundwater plume, limited to beneath the Mobil gas station facility located to the southeast of the Subject Property and a portion of Bayside Drive south of Coast Highway, and its reported stability, this facility is expected to have a low potential to have impacted the Subject Property. However, there is the potential that large scale dewatering at the Subject Property could draw contaminated groundwater onto the Site.

This assessment has identified the following RECs in connection with the Subject Property:

- A UST was installed in 1955 and there is no documentation regarding environmental sampling or its removal.
- Elevated levels of DDT and DDE have been reported from the sediments in the bay.
- Contaminated groundwater exists to the southeast and there is the potential that dewatering activities could cause migration onto the Subject Property.
- Although not considered a REC; buildings, sheds, and miscellaneous painted features exist on the Subject Property that may have been constructed prior to the early 1980s and there is the potential for asbestos containing materials (ACMs) and/or lead based paint (LBP) to exist in these structures.





Based on the RECs identified, Leighton makes the following recommendations:

- A geophysical survey and soil sampling should be conducted in the vicinity of the UST permitted for installation in 1955.
- If dredging of the bay occurs, disposal requirements for the dredged materials should be confirmed with the appropriate regulatory agencies.
- If dewatering activities occur onsite during future redevelopment, samples should be obtained from the water and analyzed for volatile organic compounds (VOCs) and oxygenates to ensure that they do not exceed applicable discharge requirements.
- Structures that will be demolished at the Subject Property that may possibly contain ACMs or LBP (constructed prior to the early 1980s) should be surveyed for these materials, and if present, should be abated appropriately.
- In general, observations should be made during any future development activities for features of concern or areas of possible contamination such as, but not limited to, the presence of underground facilities, buried debris, waste drums, tanks, soil staining or odorous soils. Further investigation and analysis may be necessary, should such materials be encountered.



## 10.0 DEVIATIONS

Leighton Consulting did not deviate from or alter the scope of work, as defined in Section 1.3 of this report.



## 11.0 ADDITIONAL SERVICES

Leighton Consulting did not perform any work outside the scope of work as defined in Section 1.3 of this report.



## 12.0 QUALIFICATIONS OF ENVIRONMENTAL PROFESSIONALS

### 12.1 Corporate

Leighton Consulting, Inc. is a California corporation, providing geotechnical and environmental consulting services throughout California. We are solely a consulting firm without interests in real property other than our eight offices in Southern California. We provide professional environmental consulting services including application of science and engineering to environmental compliance, hazardous materials/waste assessment and cleanup, and management of hazardous, solid and industrial waste. Phase I Environmental Site Assessments are a part of this practice area and have been conducted by us.

### 12.2 Individual

The qualifications of the Project Manager and the other Leighton Consulting environmental professionals involved in this Phase I ESA meet the Leighton Consulting corporate requirements for performing Phase I ESAs as specified by ASTM 1527-05. In addition, Ms. Meredith Church is a Professional Geologist.

### 12.3 Environmental Professional Statement

I declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental professional as defined by §312.10 of 40 CFR Part 312.

I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the Subject Property. I have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.



Meredith Church, P.G.  
Project Geologist



Leighton

# APPENDIX A

## APPENDIX A

References

Advanced Environmental Concepts, Inc. 2007. *3<sup>rd</sup> Quarter 2007 Groundwater Sampling Report, Newport Auto Center, 445 East Coast Highway, Newport Beach, California.* October 22, 2007.

American Society for Testing and Materials, ASTM, 2005, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, Designation E1527-05, dated November 1, 2005.

Division of Oil, Gas, and Geothermal Resources (DOGGR), Regional Wildcat Map 106, <ftp://ftp.consrv.ca.gov/pub/oil/maps/dist1/w1-6/Mapw1-6.pdf>, dated August 16, 2005.

EDR<sup>®</sup> Historical Topographic Map Report, dated July 22, 2009:

<b>Date</b>	<b>Scale</b>	<b>Series</b>	<b>Series &amp; Target Quadrangle</b>
1901	1" : 62,500"	15'	Santa Ana
1901	1" : 250,000"	60'	Southern California Sheet 1
1902	1" : 125,000"	30'	Corona
1951	1" : 24,000"	7.5'	Newport Beach
1965	1" : 24,000"	7.5'	Newport Beach
1965 Photorevised 1972	1" : 24,000"	7.5'	Newport Beach
1965 Photorevised 1981	1" : 24,000"	7.5'	Newport Beach

EDR<sup>®</sup> Aerial Photo Decade Package, dated July 24, 2009:

<b>Date</b>	<b>Scale</b>	<b>Source</b>
1927	1" : 500'	Fairchild
1938	1" : 555'	Laval
1947	1" : 666'	Fairchild
1953	1" : 555'	Pacific Air
1968	1" : 480'	Teledyne
1977	1" : 666'	Teledyne
1990	1" : 666'	USGS
1995	1" : 666'	USGS
2002	1" : 666'	USGS
2005	1" : 604'	EDR <sup>®</sup>

## APPENDIX A (Continued)

References

EDR<sup>®</sup> City Directory Abstract, August 4, 2009.

EDR<sup>®</sup> Radius Map Report with GeoCheck<sup>®</sup>, July 21, 2009.

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Orange County Health Care Agency (OCHCA). 2005. *Case Closure Summary – Leaking Underground Fuel Tank Program.* March 3, 2005.

Southern California Air Quality Management District (SCAQMD), Find Information Detail (FIND), <http://www.aqmd.gov/webappl/fim/default.htm>, August 4, 2009.

United States Department of Agriculture, Soil Conservation Service and Forest Service, Soil Survey of Orange County and Western Part Riverside County, California, September 1978.

## APPENDIX A (Continued)

References

Wayne Perry, Inc. 2009. *Groundwater Monitoring and Status Report, First Quarter 2009, Former Shell Service Station, 990 Coast Highway (at Jamboree Road), Newport Beach, California, OCHCA File: 92UT86, WPI File: 06.301, SAP Code: 129400.* April 28, 2009.



# **APPENDIX B**

## **SITE PHOTOS**

### **PHOTO NO. 1:**

*View from the northeast corner of the Subject Property looking towards the southwest.*



### **PHOTO NO. 2:**

*View of restroom and row of garages/storage areas on the eastern side of the Subject Property.*



## SITE PHOTOS

### PHOTO NO. 3 and 4:

*View of Pierson's Port storage area, aquatic equipment rental business, and area underneath East Coast Highway in the southwest of the Subject Property.*

View 3



View 4



### PHOTO NO. 5, 6, 7, and 8:

*View of the portion of the Subject Property south of East Coast Highway, including rowing team boat/materials storage and drain.*

View 5



View 6



View 8



View 7





## SITE PHOTOS

### PHOTO NO. 9:

*View of recreational and marine vehicle storage area in the southern portion of the Subject Property.*



### PHOTO NO. 10:

*View of the recreational and marine vehicle storage area in the southern portion of the Subject Property.*



## SITE PHOTOS

### PHOTO NO. 11, 12, and 13:

*View of transformers on the Subject Property.*

View 11



View 12



View 13



### PHOTO NO. 14:

*View looking north along the fire lane of the Subject Property.*



# APPENDIX C



# Important Information About Your Geoenvironmental Report

Geoenvironmental studies are commissioned to gain information about environmental conditions on and beneath the surface of a site. The more comprehensive the study, the more reliable the assessment is likely to be. But remember: Any such assessment is to a greater or lesser extent based on professional opinions about conditions that cannot be seen or tested. Accordingly, no matter how many data are developed, risks created by unanticipated conditions will always remain. *Have realistic expectations.* Work with your geoenvironmental consultant to manage known and unknown risks. Part of that process should already have been accomplished, through the risk allocation provisions you and your geoenvironmental professional discussed and included in your contract's general terms and conditions. This document is intended to explain some of the concepts that may be included in your agreement, and to pass along information and suggestions to help you manage your risk.

## **Beware of Change; Keep Your Geoenvironmental Professional Advised**

The design of a geoenvironmental study considers a variety of factors that are subject to change. Changes can undermine the applicability of a report's findings, conclusions, and recommendations. *Advise your geoenvironmental professional about any changes you become aware of.* Geoenvironmental professionals cannot accept responsibility or liability for problems that occur because a report fails to consider conditions that did not exist when the study was designed. Ask your geoenvironmental professional about the types of changes you should be particularly alert to. Some of the most common include:

- modification of the proposed development or ownership group,
- sale or other property transfer,
- replacement of or additions to the financing entity,
- amendment of existing regulations or introduction of new ones, or
- changes in the use or condition of adjacent property.

Should you become aware of any change, *do not rely on a geoenvironmental report.* Advise your geoenvironmental professional immediately; follow the professional's advice.

## **Recognize the Impact of Time**

A geoenvironmental professional's findings, recommendations, and conclusions cannot remain valid indefinitely. The more time that passes, the more likely it is that important latent changes will occur. *Do not rely on a geoenvironmental report if too much time has elapsed since it was completed.* Ask your environmental professional to define "too much time." In the case of Phase I Environmental Site Assessments (ESAs), for example, more than 180 days after submission is generally considered "too much."

## **Prepare To Deal with Unanticipated Conditions**

The findings, recommendations, and conclusions of a Phase I ESA report typically are based on a review of historical information, interviews, a site "walkover," and other forms of noninvasive research. When site subsurface conditions are not sampled in any way, the risk of unanticipated conditions is higher than it would otherwise be.

While borings, installation of monitoring wells, and similar invasive test methods can help reduce the risk of unanticipated conditions, *do not overvalue the effectiveness of testing.* Testing provides information about actual conditions only at the precise locations where samples are taken, and only when they are taken. Your geoenvironmental professional has applied that specific information to develop a general opinion about environmental conditions. *Actual conditions in areas not sampled may differ (sometimes sharply) from those predicted in a report.* For example, a site may contain an unregistered underground storage tank that shows no surface trace of its existence. *Even conditions in areas that were tested can change,* sometimes suddenly, due to any number of events, not the least of which include occurrences at

adjacent sites. Recognize, too, that *even some conditions in tested areas may go undiscovered*, because the tests or analytical methods used were designed to detect only those conditions assumed to exist.

Manage your risks by retaining your geoenvironmental professional to work with you as the project proceeds. Establish a contingency fund or other means to enable your geoenvironmental professional to respond rapidly, in order to limit the impact of unforeseen conditions. And to help prevent any misunderstanding, identify those empowered to authorize changes and the administrative procedures that should be followed.

### **Do Not Permit Any Other Party To Rely on the Report**

Geoenvironmental professionals design their studies and prepare their reports to meet the specific needs of the clients who retain them, in light of the risk management methods that the client and geoenvironmental professional agree to, and the statutory, regulatory, or other requirements that apply. The study designed for a developer may differ sharply from one designed for a lender, insurer, public agency...or even another developer. *Unless the report specifically states otherwise, it was developed for you and only you.* Do not unilaterally permit any other party to rely on it. The report and the study underlying it may not be adequate for another party's needs, and you could be held liable for shortcomings your geoenvironmental professional was powerless to prevent or anticipate. Inform your geoenvironmental professional when you know or expect that someone else—a third-party—will want to use or rely on the report. *Do not permit third-party use or reliance until you first confer with the geoenvironmental professional who prepared the report.* Additional testing, analysis, or study may be required and, in any event, appropriate terms and conditions should be agreed to so both you and your geoenvironmental professional are protected from third-party risks. *Any party who relies on a geoenvironmental report without the express written permission of the professional who prepared it and the client for whom it was prepared may be solely liable for any problems that arise.*

### **Avoid Misinterpretation of the Report**

Design professionals and other parties may want to rely on the report in developing plans and specifications. They need to be advised, in writing, that their needs may not have been considered when the study's scope was developed, and, even if their needs were considered, they might misinterpret geoenvironmental findings, conclusions, and recommendations. *Commission your geoenvironmental professional to explain pertinent elements of the report to others who are permitted to rely on it, and to review any plans, specifications or other instruments of professional service that incorporate any of the report's findings, conclusions, or recommendations.* Your geoenvironmental professional has the best understanding of the issues involved, including the fundamental assumptions that underpinned the study's scope.

### **Give Contractors Access to the Report**

Reduce the risk of delays, claims, and disputes by giving contractors access to the full report, *providing that it is accompanied by a letter of transmittal that can protect you* by making it unquestionably clear that: 1) the study was not conducted and the report was not prepared for purposes of bid development, and 2) the findings, conclusions, and recommendations included in the report are based on a variety of opinions, inferences, and assumptions and are subject to interpretation. Use the letter to also advise contractors to consult with your geoenvironmental professional to obtain clarifications, interpretations, and guidance (a fee may be required for this service), and that—in any event—they should conduct additional studies to obtain the specific type and extent of information each prefers for preparing a bid or cost estimate. Providing access to the full report, with the appropriate caveats, helps prevent formation of adversarial attitudes and claims of concealed or differing conditions. If a contractor elects to ignore the warnings and advice in the letter of transmittal, it would do so at its own risk. Your geoenvironmental professional should be able to help you prepare an effective letter.

### **Do Not Separate Documentation from the Report**

Geoenvironmental reports often include supplemental documentation, such as maps and copies of regulatory files, permits, registrations, citations, and correspondence with regulatory agencies. If subsurface explorations were performed, the report may contain final boring logs and copies of laboratory data. If remediation activities occurred on site, the report may include: copies of daily field reports; waste manifests; and information about the disturbance of subsurface materials, the type and thickness of any fill placed on site, and fill placement practices, among other types of documentation. *Do not separate supplemental documentation from the report. Do not, and do not permit any other party to redraw or modify any of the supplemental documentation for incorporation into other professionals' instruments of service.*

### **Understand the Rule of Standards**

Unless they are incorporated into statutes or regulations, standard practices and standard guides developed by the American Society for Testing and Materials (ASTM) and other recognized standards-developing organizations (SDOs) are little more than aspirational methods agreed to by a consensus of a committee. The committees that develop standards may not comprise those best-qualified to establish methods and, no matter what, no standard method can possibly consider the infinite client- and project-specific variables that fly in the face of the theoretical "standard conditions" to which standard practices and standard guides apply. In fact, these variables can be so pronounced that geoenvironmental professionals who comply with every directive of an ASTM or other standard procedure could run afoul of local custom and practice, thus violating the standard of care.



Accordingly, when geoenvironmental professionals indicate in their reports that they have performed a service "in general compliance" with one standard or another, it means they have applied professional judgement in creating and implementing a scope of service designed for the specific client and project involved, and which follows some of the general precepts laid out in the referenced standard. To the extent that a report indicates "general compliance" with a standard, you may wish to speak with your geoenvironmental professional to learn more about what was and was not done. *Do not assume a given standard was followed to the letter.* Research indicates that that seldom is the case.

### **Realize That Recommendations May Not Be Final**

The technical recommendations included in a geoenvironmental report are based on assumptions about actual conditions, and so are preliminary or tentative. Final recommendations can be prepared only by observing actual conditions as they are exposed. For that reason, you should retain the geoenvironmental professional of record to observe construction and/or remediation activities on site, to permit rapid response to unanticipated conditions. *The geoenvironmental professional who prepared the report cannot assume responsibility or liability for the report's recommendations if that professional is not retained to observe relevant site operations.*

### **Understand That Geotechnical Issues Have Not Been Addressed**

Unless geotechnical engineering was specifically included in the scope of professional service, a report is not likely to relate any findings, conclusions, or recommendations about the suitability of subsurface materials for construction purposes, especially when site remediation has been accomplished through the removal, replacement, encapsulation, or chemical treatment of on-site soils. The

equipment, techniques, and testing used by geotechnical engineers differ markedly from those used by geoenvironmental professionals; their education, training, and experience are also significantly different. If you plan to build on the subject site, but have not yet had a geotechnical engineering study conducted, your geoenvironmental professional should be able to provide guidance about the next steps you should take. The same firm may provide the services you need.

### **Read Responsibility Provisions Closely**

Geoenvironmental studies cannot be exact; they are based on professional judgement and opinion. Nonetheless, some clients, contractors, and others assume geoenvironmental reports are or certainly should be unerringly precise. Such assumptions have created unrealistic expectations that have led to wholly unwarranted claims and disputes. To help prevent such problems, geoenvironmental professionals have developed a number of report provisions and contract terms that explain who is responsible for what, and how risks are to be allocated. Some people mistake these for "exculpatory clauses," that is, provisions whose purpose is to transfer one party's rightful responsibilities and liabilities to someone else. Read the responsibility provisions included in a report and in the contract you and your geoenvironmental professional agreed to. *Responsibility provisions are not "boiler-plate."* They are important.

### **Rely on Your Geoenvironmental Professional for Additional Assistance**

Membership in ASFE exposes geoenvironmental professionals to a wide array of risk management techniques that can be of genuine benefit for everyone involved with a geoenvironmental project. Confer with your ASFE-member geoenvironmental professional for more information.



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# **APPENDIX D**

to: Meredith Church  
 from: Bonnie Bortanti  
 date: 8/29/09  
 fax: (949) 250-1114



# Leighton Consulting, Inc.

A LEIGHTON GROUP COMPANY

## Phase I ESA Owner/Site Contact Interview Form

Interviewee Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Relationship to Property: \_\_\_\_\_

Name and Address of Owner of the Property: Bayside Village Marina LLC

Date of Ownership: \_\_\_\_\_ Site Name: Bayside Village Marina

Property Address: 300 East Coast Highway

Previous Street Names/Numbers: Newport Beach CA 92660

General Business Type/Present Property Use: marinaslips, dry storage

Assessor Parcel Number: 440-132-60 Total # of Buildings: 2 \*

Grand Total Square Footage: 4.5 acres Date Built: ~~XXXXXX~~

Past Property Uses (include dates): vacant undeveloped land

Source of Potable Water Supply (municipal/groundwater wells): city of newport beach

Sewage Disposal (municipal/septic) (provide name of utility): city of newport beach

Means of Heating/Cooling (gas, electric, heating oil, etc.): n/a So. Ca gas

Fuel Source for Heating/Air Conditioning (provide name of utility): na Soca. Edison

Neighboring Property Types (commercial/industrial/residential): mhp

Current Uses of Adjoining Properties: North: back bay channel

South: Coast Highway/commercial

East: Newport Dunes

West: back bay channel

④  
 \*restrooms  
 located adjacent to  
 dry storage

⑤ restrooms adjacent to garages on mhp not sure if  
 just land or structures belong to marina

**ARE THERE NOW, OR HAVE THERE BEEN IN THE PAST, ANY OF THESE ITEMS ONSITE OR ON ADJACENT PROPERTIES:**

ITEM	YES	NO	UNK	ADJACENT PROPERTY
• Hazardous Materials	✓			<i>HCM managed O&amp;M</i>
• Hazardous Waste		✓		
• MSDS Sheets	✓			<i>used at mhp</i>
• Underground Storage Tanks	✓			<i>removed 6/92</i>
• Aboveground Storage Tanks			✓	
• Vent Pipes, fill pipes, or access ways indicating a fill pipe to an underground storage area		✓		
• Odors		✓		
• Drums		✓		
• Electrical or hydraulic equipment known to contain PCBs		✓		
• Stained soil or surfaces		✓		
• Drains		✓		
• Sumps		✓		
• Clarifier		✓		
• Pits, ponds, or lagoons		✓		
• Stressed vegetation		✓		
• Areas for dumping solid waste (landfill)		✓		
• Wastewater		✓		
• Wells (oil or gas)		✓		
• Septic Systems		✓		
• Fill Material (if fill material is on site, please state source of fill)		✓		

ADDITIONAL QUESTIONS:	YES	NO	UNK	REMARKS
Has the Site been used as any of the following: gas station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility? If so, state which type of facility.		✓		
Are you aware of any regulatory compliance audit reports, geotechnical reports, Phase I Environmental Site Assessments, or Phase II Environmental Site Assessments, or soil sampling reports prepared for the Site?	✓			Levine Fricke Recon 8/4/97 various soils tests
Do you know of any notices or correspondence from any government agency relating to past or current violations of environmental laws with respect to the Site or relating to environmental liens encumbering the Site?		✓		
Do you know of any pending, threatened, or past litigation or administrative proceedings relevant to hazardous substances or petroleum products in, on or from the Site?		✓		
Do you know of any notices from any governmental entity regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products?		✓		
Do you know of any environmental concerns associated with the Site? If so please state in remarks column.		✓		
Do you know of any environmental concerns associated with any adjacent or nearby properties? If so please state in remarks column.		✓		

Current Property Owner's Time Period of Ownership: 1997 to present; held lease prior to that time

Property Utilization During Ownership: marina, dry storage

Name and Address of Past Owners: Irvine Company

Additional Comments: \* Soils tests in marina conducted by city

Preparer presents that to the best of the preparer's knowledge the above statements and facts are true and correct and to the best of the preparer's actual knowledge no material facts have been suppressed or misstated.

Signature

Date



Leighton

**Phase I ESA Users Questionnaire**

---

**Project Name:**

---

**Project Address or APN:**

---

**Client (or user of the Phase I Environmental Site Assessment):** **Name/Title:**

---

**Client Phone:**

---

**Reason Phase I is required:**

---

**Type of property:**

---

**Type of property transaction (e.g., Sale, purchase, exchange):**

---

**Complete and Correct Address of the property and APN(s):**

---

**Any scope of services beyond the ASTM Practice E 1527:**

---

**All Parties that will rely on the Phase I report:**

---

**Name and Contact Information for Site Contact:**

---

**Any special terms or conditions:**

---

**Any other pertinent knowledge or experience with the property (e.g., prior reports, documents, correspondence concerning the environmental conditions of the property):**

---



Leighton

**(1). Environmental cleanup liens that are filed or recorded against the site (40 CFR 312.25).**

Are you aware of any environmental/cleanup liens against the property that are filed or recorded under federal, tribal, state or local law? ☐ Yes | ☒ No

If Yes, Describe:

**(2). Activity and land use limitations (AULs) that are in place on the site or that have been filed or recorded in a registry (40 CFR 312.26).**

Are you aware of any AULs, such as engineering controls, land use restrictions or institutional controls that are in place at the site and/or have been filed or recorded in a registry under federal, tribal, state or local law? ☐ Yes | ☒ No

If Yes, Describe:

**(3). Specialized knowledge or experience of the person seeking to qualify for the Landowners Liability Protections (LLP) (40 CFR 312.28).**

As the user of this ESA do you have any specialized knowledge or experience related to the property or the property or nearby properties? For example, are you involved in the same line of business as the current or former occupants of the property or an adjoining property so that you would have specialized knowledge of the chemicals and processes used by this type of business? ☐ Yes | ☒ No

If Yes, Describe:

**(4). Relationship of the purchase price to the fair market value of the property if it were not contaminated (40 DWF 312.29).**

Does the purchase price being paid for this property reasonably reflect the fair market value of the property? If you conclude that there is a difference, have you considered whether the lower purchase price is because contamination is known or believed to be present at the property? ☐ Yes | ☒ No

If Yes, Describe:

n/a

**(5). Commonly known or reasonable ascertainable information about the property (40 CFR 312.30).**

Are you aware of commonly known or reasonably ascertainable information about the property that would help the environmental professional to identify conditions indicative of releases or threatened releases? For example, as user,

- (a.) Do you know the past uses of the property? ☐ Yes | ☒ No
- (b.) Do you know of specific chemicals that are present or once were present at the property? ☐ Yes | ☒ No
- (c.) Do you know of spills or other chemical releases that have taken place at the property? ☐ Yes | ☒ No
- (d.) Do you know of any environmental cleanups that have taken place at the property? ☐ Yes | ☒ No

If Yes, Describe:

see Levene Fricks Recon report 8/97

**(6). The degree of obviousness of the presence of likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation (40 CFR 312.31).**

As the user of this ESA, based on your knowledge and experience related to the property are there any obvious indicators that point to the presence or likely presence of contamination at the property? ☐ Yes | ☒ No

If Yes, Describe:



Leighton

# **APPENDIX E**



**BAYSIDE VILLAGE MARINA  
CHICAGO TITLE INSURANCE COMPANY  
PRELIMINARY TITLE REPORT  
HYPERLINKED UNDERLYING DOCUMENTS**

1. Parcel A - Legal Description  
Parcel Map No. 93-111 plus Certificate of Correction (also referred to throughout the Prelim., but additional copies were not made)
2. Parcel B Grant of Easement for Access and Walkway (same document shown as items 1 and 2)

**MATTERS AFFECTING PARCEL A:**

3. Assessor's Parcel Map (APN 440-132-60)
4. Pipeline Easement (item 3 on Prelim.) – note that the document is a "Grant Deed"
5. Perpetual Avigation Easement – (item 4 of Prelim)
6. Sewer Easement (Grant of Easement) and amended (Joint Use Agreement) (item 5 of Prelim)
7. Public Utilities Easement and Ingress and Egress Easement (items 6 and 7 of Prelim)  
(the public utilities easement and ingress and egress easement are the same document)
8. Highway and Drainage Easement (document is "Amended Final Order of Condemnation") - (item 8 of Prelim)
9. Waterline and storm drain Easement (item 10 of Prelim) (this is the Parcel Map shown in item 1 above)
10. Three documents: (1) Non-exclusive easement over a portion of Parcel 3 of Parcel Map 93-111, designated by Note K, which is also shown in items 1 and 9; (2) is the Certificate of Correction also shown in item 1 above; (3) Grant Deed which was recorded and re-recorded (shown as item 13 of Prelim)
11. Non-exclusive easement for recreation use of that portion of Parcel 3 of Parcel Map 93-111 designed by Note L, shown on the Parcel Map as item 1 above; Certificate of Correction also shown as item 1 above; and Grant Deed which was recorded and re-recorded (item 14 of Prelim)
12. Unrecorded lease disclosed by recorded Memorandum of Lease (item 15 of Prelim)

13. Easement for ingress and egress (shown at item 16 on Prelim) – **Note that the hyperlinked document was the same as the Memorandum of Lease**

#### **MATTERS AFFECTING PARCEL B:**

14. Perpetual Avigation Easement – **Same as 5 above**
15. Parcel Map 93-111 for storm drain easement – **Same as 1 above**
16. Declaration of Special Land Use Restriction together with First and Second Amendments (item 19 of Prelim)
17. Trash enclosure and wood wall on Parcel 2 of Parcel Map 93-111 (item 20 of Prelim) – **see Parcel Map 93-111 as item 1 above**



# Chicago Title Company

Commercial/Industrial Division,  
700 South Flower, Suite 800 Los Angeles, CA 90017 (213) 488-4300

## Title Department:

Chicago Title Company  
Attn: Clark McKinnon / Karl Daly  
Email: [Clark.McKinnon@CTT.com](mailto:Clark.McKinnon@CTT.com) or  
[Karl.Daly@CTT.com](mailto:Karl.Daly@CTT.com)  
Phone: (213) 488-4369 & (213) 612-4157  
Fax: (213) 488-4385  
Order No.: 910076065-X59

## Escrow Department:

Chicago Title Company  
Attn: Sue Trowbridge  
Email: [sue.trowbridge@ctt.com](mailto:sue.trowbridge@ctt.com)  
Phone: (415)291-5103  
Fax: (415)434-2176  
Escrow No.: 160290594

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## PRELIMINARY REPORT

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Property Address: Coast Highway, Newport Beach, Ca.

Dated as of: June 4, 2009 at 7:30 am

In response to the application for a policy of title insurance referenced herein, Chicago Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said Policy forms.

The printed Exceptions and Exclusion from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company

***Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.***

***It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.***

## LEGAL DESCRIPTION

### PARCEL A:

PARCEL 3 OF PARCEL MAP NO. 93-111, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 278, PAGES 40 TO 45 INCLUSIVE OF PARCEL MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AS CORRECTED BY THAT CERTAIN CERTIFICATE OF CORRECTION RECORDED JUNE 6, 1994 AS INSTRUMENT NO. 94-380365 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

### PARCEL B:

THE FOLLOWING EASEMENTS:

- SAME DOCUMENT
1. A NON-EXCLUSIVE, BLANKET EASEMENT (THE "ACCESS EASEMENT") APPURTENANT TO THE ROADWAY FOR THE PURPOSES OF VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS OVER THE "ROADWAY" DESCRIBED THEREIN IN EXHIBIT B ALONG, OVER AND ACROSS THE CURRENTLY EXISTING ROADWAYS AND WALKWAYS ON THE SERVIENT PROPERTY DESCRIBED THEREIN, AS MORE PARTICULARLY DESCRIBED IN THE GRANT OF EASEMENT RECORDED AUGUST 23, 2004 AS INSTRUMENT NO. 2004000762949 OF OFFICIAL RECORDS; AND
  2. A NON-EXCLUSIVE EASEMENT (THE "WALKWAY EASEMENT") APPURTENANT TO SAID LAND FOR VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS ACROSS THAT PORTION OF THE SERVIENT PROPERTY DESCRIBED THEREIN, AS MORE PARTICULARLY DESCRIBED IN THE GRANT OF EASEMENT RECORDED AUGUST 23, 2004 AS INSTRUMENT NO. 2004000762949 OF OFFICIAL RECORDS.

END OF LEGAL DESCRIPTION

## **SCHEDULE A**

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

A Fee as to Parcel(s) A;

An Easement more fully described below as to Parcel(s) B

2. Title to said estate or interest at the date hereof is vested in:

Bayside Village Marina, LLC, a California limited liability company

3. The land referred to in this report is situated in the State of California, County of Orange and is described in the Legal Description, attached hereto:

**END OF SCHEDULE A**

**SCHEDULE B**  
(continued)

4. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose: perpetual avigation easement in and through the air above  
Recorded: March 17, 1964 in Book 6965 Page 721 of Official Records  
Affects: That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

5. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose: sewer  
Recorded: March 16, 1966 in Book 7870 Page 919 of Official Records amended September 15, 1983 as Instrument No. 83-406733  
Affects: That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

6. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose: public utilities, together with access thereto  
Recorded: December 1, 1983 as Instrument No. 83-549259 of Official Records  
Affects: That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

7. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose: ingress and egress  
Recorded: December 1, 1983 as Instrument No. 83-549259 of Official Records  
Affects: That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

8. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose: highway and drainage  
Recorded: March 22, 1984 as Instrument No. 84-118950 of Official Records  
Affects: That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

**SCHEDULE B**  
(continued)

9. The fact that the ownership of said land does not include rights of access to or from the street, highway, or freeway abutting said land, such rights having been relinquished by the map of said Tract

Affects: That portion of said land as shown on said map.

Said land, however, abuts upon a public thoroughfare other than the road referred to above, over which rights of vehicular ingress and egress have not been relinquished.

10. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the recorded map shown below:

Map of: Parcel Map No. 93-111  
Purpose: Waterline and storm drain  
Affects: That portion of said land as shown on said map.

11. The irrevocable offer to dedicate to the City of Newport Beach an easement for street purposes as shown on the map of said tract, over a portion of said land.

Said offer was not accepted at this time.

12. Any facts, rights, interests or claims which may exist or arise by reason of the following matters disclosed by an inspection or survey:

- a) The fact that a wood fence extends onto bayside drive.
- b) The fact that an observation well is situated on said land.
- c) The fact that a dock extends onto adjoining land, along the westerly boundary

13. A non-exclusive easement over that portion of Parcel 3 of Parcel Map No. 93-111 designated by Note K, in the City of Newport Beach, County of Orange, State of California, as shown on a map filed in Book 278, pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California, as reserved in the deed recorded August 23, 2004 as Instrument no. 2004000762948 of Official Records and re-recorded October 22, 2004 as Instrument No. 2004000955355 of Official Records.

Reference is hereby made to said document for full particulars.

**SCHEDULE B**  
(continued)

14. A non-exclusive easement for recreational use of that portion of Parcel 3 of Parcel Map No. 93-111 designated by Note L in the City of Newport Beach, County of Orange, State of California, as shown on a map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction recorded June 6, 1994 as Instrument no. 94-380365 of Official Records of Orange County, California, as reserved in the deed recorded August 23, 2004 as Instrument No. 2004000762948 of Official Records re-recorded October 22, 2004 as Instrument No. 2004000955355 of Official Records.

Reference is hereby made to said document for full particulars.

15. An unrecorded lease with certain terms, covenants, conditions and provisions as set forth therein as disclosed by a document.

Lessor:	Bayside Village Marina, LLC, a California limited liability company
Lessee:	Bayside MHP LLC, a California limited liability company
Disclosed By	Memorandum of Lease
Recorded:	August 23, 2004 as Instrument No. 2004-762950, of Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

16. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	ingress and egress
Recorded:	August 23, 2004 as Instrument No. 2004-762950, of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

**The Following Matters Affect Parcel B:**

17. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	perpetual avigation easement in and through the air above
Recorded:	March 17, 1964 in Book 6965 Page 721 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.



**SCHEDULE B**  
(continued)

18. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the recorded map shown below:

Map of:	Parcel Map No. 93-111
Purpose:	Storm drain
Affects:	That portion of said land as shown on said map.

19. A document subject to all the terms, provisions and conditions therein contained.

Entitled:	Declaration of Special Land Use Restriction
Recorded:	December 28, 1993 as Instrument No. 93-905028, of Official Records

Reference is hereby made to said document for full particulars.

An Amendment to Declaration of Special Land Use Restriction, subject to all the terms, provisions and conditions therein contained, recorded March 10, 1994 as Instrument No. 94-172235 of Official Records

A Second Amendment to Declaration of Special Land Use Restriction, subject to all the terms, provisions and conditions therein contained, recorded August 12, 1997 as Instrument No. 97-385834 of Official Records

20. Any facts, rights, interests or claims which may exist or arise by reason of the following matters disclosed by an inspection or survey:

A. A trash enclosure on parcel 2 of parcel map no. 93-111 of subject property extends southeasterly onto parcel 3 of said parcel map

B. A wood wall on parcel 2 of parcel map no. 93-111 of subject property extends southeasterly onto the southeasterly parcel 3 of said parcel map.

**The Following Matters Affect All Parcels:**

21. Any easements not disclosed by those public records which impart constructive notice as to matters affecting title to real property and which are not visible and apparent from an inspection of the surface of said land.
22. Water rights, claims or title to water, whether or not disclosed by the public records.

**SCHEDULE B**  
(continued)

23. Matters which may be disclosed by an inspection and/or by a correct ALTA/ACSM Land Title Survey of said land that is satisfactory to this Company, and/or by inquiry of the parties in possession thereof.

This office must be notified at least 7 business days prior to the scheduled closing in order to arrange for an inspection of the land; upon completion of this inspection you will be notified of the removal of specific coverage exceptions and/or additional exceptions to coverage.

24. Any rights of parties in possession of said land, based on any unrecorded lease, or leases.

This Company will require a full copy of any unrecorded lease, together with all supplements, assignments, and amendments for review.

END OF SCHEDULE B

SHEET 1 OF 6 SHEETS  
4 PARCELS  
56.362 ACRES  
DATE OF SURVEY:  
JANUARY, 1993  
ALL OF TENTATIVE PARCEL  
MAP NO. 93-111

# PARCEL MAP NO. 93-111

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE,  
STATE OF CALIFORNIA

BLOCK  
5349

MODULE  
18

BEING A SUBDIVISION OF PORTIONS OF BLOCKS 54 AND 94 OF IRVINE'S SUBDIVISION,  
AS PER MAP RECORDED IN BOOK 1, PAGE 80 OF MISCELLANEOUS MAPS, IN THE OFFICE  
OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ADAMS-STREETER CIVIL ENGINEERS, INC.  
JANUARY, 1993

JAN A. ADAMS R.C.E. 21687

278 40  
RESUB. 995  
ACCEPTED AND FILED AT THE  
REQUEST OF  
First American Title Ins. Co.  
DATE September 24, 1993  
TIME 1:24 PM FEE \$ 116.92  
INSTRUMENT 93-0647110  
BOOK 278 PAGE 40 Pt 1  
LEE A. BRANCH  
COUNTY RECORDER  
BY *[Signature]*  
DEPUTY

## OWNERSHIP CERTIFICATE:

WE, THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE  
LAND COVERED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION  
OF SAID MAP, AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY DEDICATE TO THE PUBLIC FOR STREET PURPOSES, BAYSIDE DRIVE.

WE ALSO HEREBY RELEASE AND RELINQUISH TO THE CITY OF NEWPORT BEACH ALL VEHICULAR  
ACCESS RIGHTS TO EAST COAST HIGHWAY.

WE ALSO HEREBY DEDICATE TO THE CITY OF NEWPORT BEACH:

1. THE EASEMENT FOR WATER LINE PURPOSES AS SHOWN ON SAID MAP.
  2. THE EASEMENT FOR STORM DRAIN PURPOSES AS SHOWN ON SAID MAP.
- WE ALSO HEREBY IRREVOCABLY OFFER TO DEDICATE TO THE CITY OF NEWPORT BEACH THE  
EASEMENT OVER PARCEL 3 FOR STREET PURPOSES AS SHOWN ON THIS MAP.

THE IRVINE COMPANY, A MICHIGAN CORPORATION

*[Signature]*  
CHICK C. WILLETTE, VICE PRESIDENT  
*[Signature]*  
THOMAS O. REWITZ, SECRETARY

## ENGINEER'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD  
SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL  
ORDINANCES AT THE REQUEST OF THE IRVINE COMPANY IN JANUARY, 1993. I HEREBY  
STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED,  
OR THAT THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE JANUARY 1, 1995; AND  
THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. I  
HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR  
CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

*[Signature]*  
JAN A. ADAMS R.C.E. 21687  
MY REGISTRATION EXPIRES 9-30-93



## CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND FOUND IT TO BE SUBSTANTIALLY IN  
CONFORMANCE WITH THE TENTATIVE MAP, IF REQUIRED, AS FILED WITH, APPROVED AND APPROVED BY  
THE PLANNING COMMISSION; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CITY  
SUBDIVISION REGULATIONS HAVE BEEN COMPLIED WITH.

*[Signature]* Sept. 22, 1993  
DONALD L. WEBB JR., R.C.E. 18791  
CITY ENGINEER, CITY OF NEWPORT BEACH  
MY REGISTRATION EXPIRES 6-30-97

## COUNTY SURVEYOR'S STATEMENT:

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND I AM  
SATISFIED SAID MAP IS TECHNICALLY CORRECT.

DATED THIS 22nd DAY OF September, 1993.

*[Signature]*  
JOHN CANAS COUNTY SURVEYOR  
BY MICHAEL EMMONS DEPUTY  
LS. 5899 EXPIRES 12-31-96



## CITY CLERK'S CERTIFICATE:

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS

I HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL OF THE CITY  
OF NEWPORT BEACH AT A REGULAR MEETING THEREOF HELD ON THE 22nd DAY  
OF September, 1993, AND THAT THEREUPON SAID COUNCIL DID, BY AN ORDER DAILY  
PASSED AND ENTERED, APPROVE SAID MAP AND DID ACCEPT ON BEHALF OF THE PUBLIC  
THE DEDICATION FOR STREET PURPOSES OF BAYSIDE DRIVE.

AND DID ALSO ACCEPT ON BEHALF OF THE CITY OF NEWPORT BEACH:

1. THE EASEMENT FOR WATER LINE PURPOSES AS DEDICATED.
  2. THE EASEMENT FOR STORM DRAIN PURPOSES AS DEDICATED.
  3. ALL VEHICULAR ACCESS RIGHTS TO EAST COAST HIGHWAY AS RELEASED AND RELINQUISHED.
- AND DID NOT ACCEPT THE IRREVOCABLE OFFER OF DEDICATION OF THE EASEMENT OVER PARCEL  
3 AS SHOWN ON THIS MAP FOR STREET PURPOSES.

AND DID ALSO APPROVE SUBJECT MAP PURSUANT TO THE PROVISIONS OF SECTION 66430  
(a) (3) (A) OF THE SUBDIVISION MAP ACT.

DATED THIS 22nd DAY OF September, 1993.

*[Signature]*  
WANDA E. RAGGIO, CITY CLERK  
OF THE CITY OF NEWPORT BEACH



STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS

ON THIS 10th DAY OF September, 1993, BEFORE ME, CAROL M. ZAFFINO, A  
NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED CHICK C. WILLETTE  
AND THOMAS O. REWITZ, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE  
BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED  
TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN  
THEIR AUTHORIZED CAPACITIES, AND THAT BY THEIR SIGNATURES ON THE INSTRUMENT,  
THE PERSONS, OR THE ENTITY UPON BEHALF OF WHICH THE PERSONS ACTED, EXECUTED  
THE INSTRUMENT.

WITNESS MY HAND.

*[Signature]*  
NOTARY PUBLIC IN AND FOR SAID STATE  
CAROL M. ZAFFINO  
(PRINT NAME)

MY PRINCIPAL PLACE OF BUSINESS IS IN  
DANVILLE COUNTY.  
MY COMMISSION EXPIRES 7/31/96

## PURPOSE STATEMENT:

THE PURPOSE OF THIS MAP IS TO SUBDIVIDE PORTIONS OF TWO EXISTING PARCELS  
INTO FOUR PARCELS.

## COUNTY TREASURER-TAX COLLECTOR CERTIFICATE:

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF MY OFFICE THERE ARE NO LIENS  
AGAINST THE LAND COVERED BY THIS MAP OR ANY PART THEREOF FOR UNPAID STATE,  
COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES,  
EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOT YET PAYABLE.

AND DO ALSO HEREBY CERTIFY TO THE RECORDER OF ORANGE COUNTY THAT THE PROVISIONS  
OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH REGARDING DEPOSITS TO SECURE  
THE PAYMENT OF TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES ON THE LAND  
COVERED BY THIS MAP.

DATED THIS 23rd DAY OF September, 1993.

ROBERT L. CITRON  
COUNTY TREASURER-TAX COLLECTOR

BY: *[Signature]*  
DEPUTY TREASURER-TAX COLLECTOR

## SIGNATURES OMISSIONS CONTINUED:

6. THE COUNTY OF ORANGE, HOLDER OF EASEMENTS FOR ROAD AND AVIGATION PURPOSES  
RECORDED IN BOOK 3653, PAGE 85, AND IN BOOK 4950, PAGE 731, BOTH OF OFFICIAL  
RECORDS.
7. NEWPORT BACK BAY REALTY COMPANY, LESSOR UNDER A LEASE RECORDED IN  
BOOK 4956, PAGE 242 OF OFFICIAL RECORDS.
8. ON ANEA NEWPORT MOBILE ESTATES, SUBLESSOR UNDER A SUBLEASE RECORDED  
IN BOOK 3850, PAGE 251 OF OFFICIAL RECORDS.

PURSUANT TO THE PROVISIONS OF SECTION 66430 (a) (3) OF THE SUBDIVISION MAP  
ACT THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:

1. CITY OF NEWPORT BEACH HOLDER OF EASEMENT FOR WATER PURPOSES PER DEED RE-  
CORDED IN BK. 221, PG. 78, AND INSTRUMENT NO. 89-347443, ALL OF OFFICIAL RECORDS.
2. ORANGE COUNTY SANITATION DIST. NO. 9 HOLDER OF EASEMENT FOR SEWERS AND INCI-  
DENTAL PURPOSES PER DEED RECORDED IN BK. 7481, PG. 741 AND PER DEED RE-  
CORDED IN BK. 7470, PG. 919, BOTH OF OFFICIAL RECORDS, AND MODIFIED PER  
FAR DEED RECORDED AS INSTRUMENT NO. 83-408733 OF OFFICIAL RECORDS.
3. THE IRVINE COMPANY HOLDER OF EASEMENT FOR SEWER AND INCIDENTAL PURPOSES  
RECORDED IN BK. 7850, PG. 379 OF OFFICIAL RECORDS.
4. THE IRVINE COMPANY HOLDER OF EASEMENT FOR AIR SPACE AND BRIDGE PURPOSES  
RECORDED IN BK. 7850, PG. 379 OF OFFICIAL RECORDS.
5. THE IRVINE COMPANY HOLDER OF EASEMENT FOR SEWERS AND INCIDENTAL  
PURPOSES RECORDED IN BK. 7850, PG. 379 OF OFFICIAL RECORDS.

SHEET 2 OF 6 SHEETS

SCALE 1" = 160'

4 PARCELS

56.362 ACRES

DATE OF SURVEY,

JANUARY, 1993

BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARINGS BETWEEN O.C.S. HORIZONTAL CONTROL STATION 895 NO. 6280 AND STATION 895 NO. 6281 BEING N. 87°42'12" W PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

DATUM STATEMENT:

COORDINATES SHOWN ARE BASED ON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 12, 1983 EAD, (1991.95 EPOCH OCS GPS ADJUSTMENT).

ALL DISTANCES SHOWN ARE GROUND, UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCE MULTIPLY GROUND DISTANCE BY 0.99997124.

MONUMENT NOTES:

1. ● INDICATES MONUMENTS FOUND AS NOTED.
2. ○ INDICATES NOTHING FOUND, NOTHING SET. POINTS FALL WITHIN WATER.
3. ○ INDICATES 1" I.P. TAGGED R.C.E. 21687 OR LEAD & TAG R.C.E. 21687 IN CONC. TO BE SET WITHIN NINETY DAYS AFTER CONSTRUCTION OF IMPROVEMENTS OR JANUARY 1, 1995 WHICH EVER OCCURS FIRST.
4. ⊕ INDICATES FOUND NOTHING, SET NOTHING. ADJUDICATED LINE PER SUPERIOR COURT CASE NO. 20436 ESTABLISHED AT RECORDED ANGLE AND DISTANCE PER R.C. 95/39-49.

NOTES:

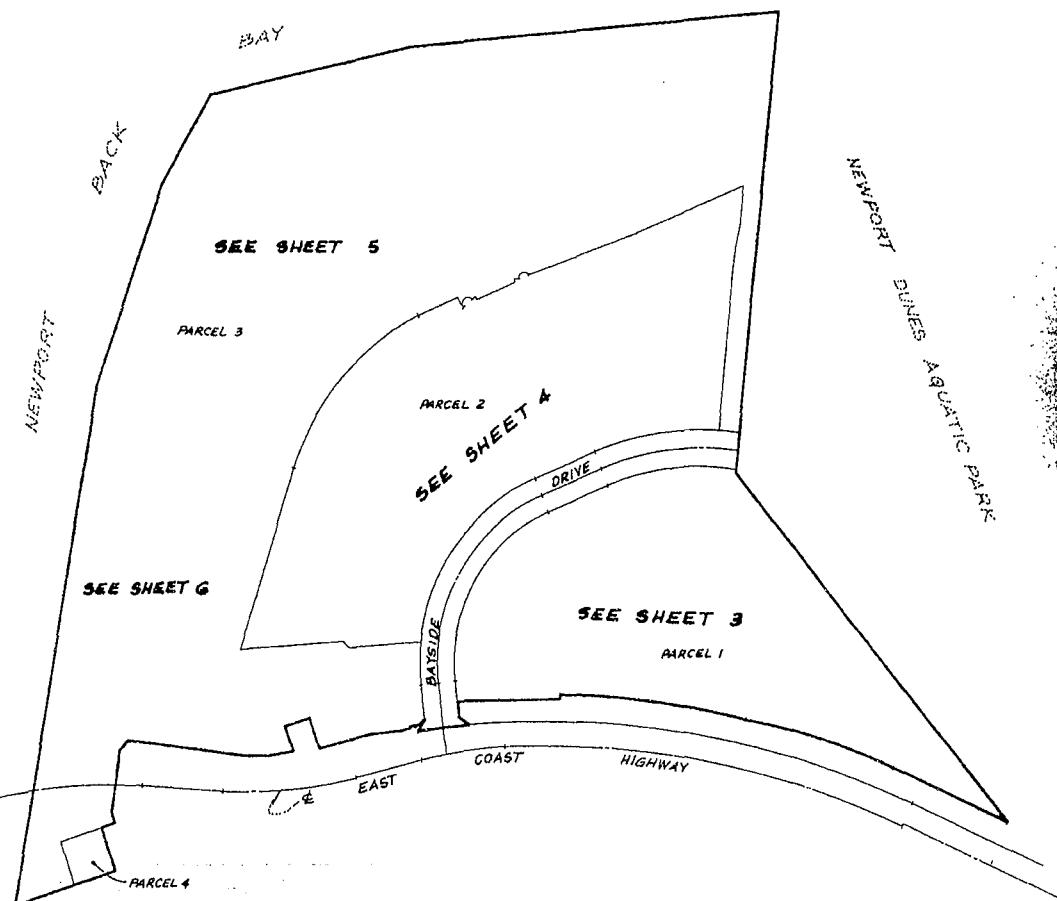
1. (A) INDICATES CENTER LINE OF CITY OF NEWPORT BEACH WATER PIPE LINE PER DEED RECORDED 11/30/28 IN BK. 221, PG. 76 OF OFFICIAL RECORDS.
2. (B) INDICATES EASEMENT RESERVED BY THE IRVINE COMPANY FOR SEWER PURPOSES PER DEED RECORDED 2/24/00 IN BK. 7850, PG. 379 OF OFFICIAL RECORDS.
3. (C) INDICATES EASEMENT IN FAVOR OF COUNTY SANITATION DISTRICT NO. 5 FOR SEWER PURPOSES PER DEED RECORDED 3/16/66 IN BK. 7870, PG. 919 OF OFFICIAL RECORDS.
4. (D) INDICATES EASEMENT IN FAVOR OF THE STATE OF CALIFORNIA FOR HIGHWAY PURPOSES PER DEED RECORDED 3/22/84 AS INSTRUMENT NO. 84-118950 OF OFFICIAL RECORDS.
5. (E) INDICATES EASEMENT IN FAVOR OF THE STATE OF CALIFORNIA FOR DRAINAGE PURPOSES PER DEED RECORDED 3/22/84 AS INSTRUMENT NO. 84-118950 OF OFFICIAL RECORDS.
6. (F) EASEMENT RESERVED IN FAVOR OF SOUTHERN CALIFORNIA EDISON CO., ORANGE COUNTY SANITATION DISTRICT NO. 5, SOUTHERN CALIFORNIA GAS CO., TELEPHONE CABLE T.V., PACIFIC TELEPHONE AND TELEGRAPH CO., AND THE STATE OF CALIFORNIA FOR INGRESS AND EGRESS AND UTILITY PURPOSES PER DEED RECORDED 12/01/83 AS INSTRUMENT NO. 83-649289 OF OFFICIAL RECORDS.
7. (G) INDICATES EASEMENT IN FAVOR OF THE CITY OF NEWPORT BEACH FOR WATER LINE PURPOSES PER DEED RECORDED 7/21/89 AS INSTRUMENT NO. 89-307413 OF OFFICIAL RECORDS.
8. (H) INDICATES RECORD PER R.S. 51-1081, R.S.B. 182/39-42.
9. (I) INDICATES RECORD PER CALTRANS SURVEY CONTROL MAP ROUTE-III-ORA-1, PLAN NO. ORA001-MIS-4.
10. "ADJ." POINTS ARE NUMBERED PER SUPERIOR COURT CASE NO. 80436 IN BK. 19, PG. 309 OF JUDGMENTS, 5-6-24.
11. (J) INDICATES EASEMENT HEREBY IRREVOCABLY OFFERED FOR DEDICATION TO THE CITY OF NEWPORT BEACH FOR STREET PURPOSES.
12. (K) INDICATES EASEMENT FOR WATER LINE PURPOSES DEDICATED TO THE CITY OF NEWPORT BEACH.
13. (L) INDICATES RECORD PER INST. NO. 90-537735 O.R.
14. (M) INDICATES RECORD PER INST. NO. 84-118950 O.R.
15. (N) INDICATES RECORD PER R.S. 95/39-49.
16. "DON" INDICATES MONUMENT STAMPED AS SUCH, (DIV. OF HNTB).
17. (O) INDICATES RECORD PER SUPERIOR COURT CASE NO. 20436, BK. 19, PG. 309 OF JUDGMENTS, 5-6-24.
18. (P) INDICATES EASEMENT FOR STORM DRAIN PURPOSES DEDICATED TO THE CITY OF NEWPORT BEACH.
19. (Q) EASEMENT RESERVED FOR INGRESS AND EGRESS PURPOSES FOR THE BENEFIT OF PARCEL 2.
20. (R) EXCLUSIVE USE EASEMENT RESERVED FOR THE BENEFIT OF PARCEL 2.
21. (RM) INDICATES RECORD AND MEASURED PER R.S. 95/39-49.

## PARCEL MAP NO. 93-111

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE  
STATE OF CALIFORNIA.

ADAMS-STREETER CIVIL ENGINEERS, INC.  
JANUARY, 1993

JAN A. ADAMS R.C.E. 21687

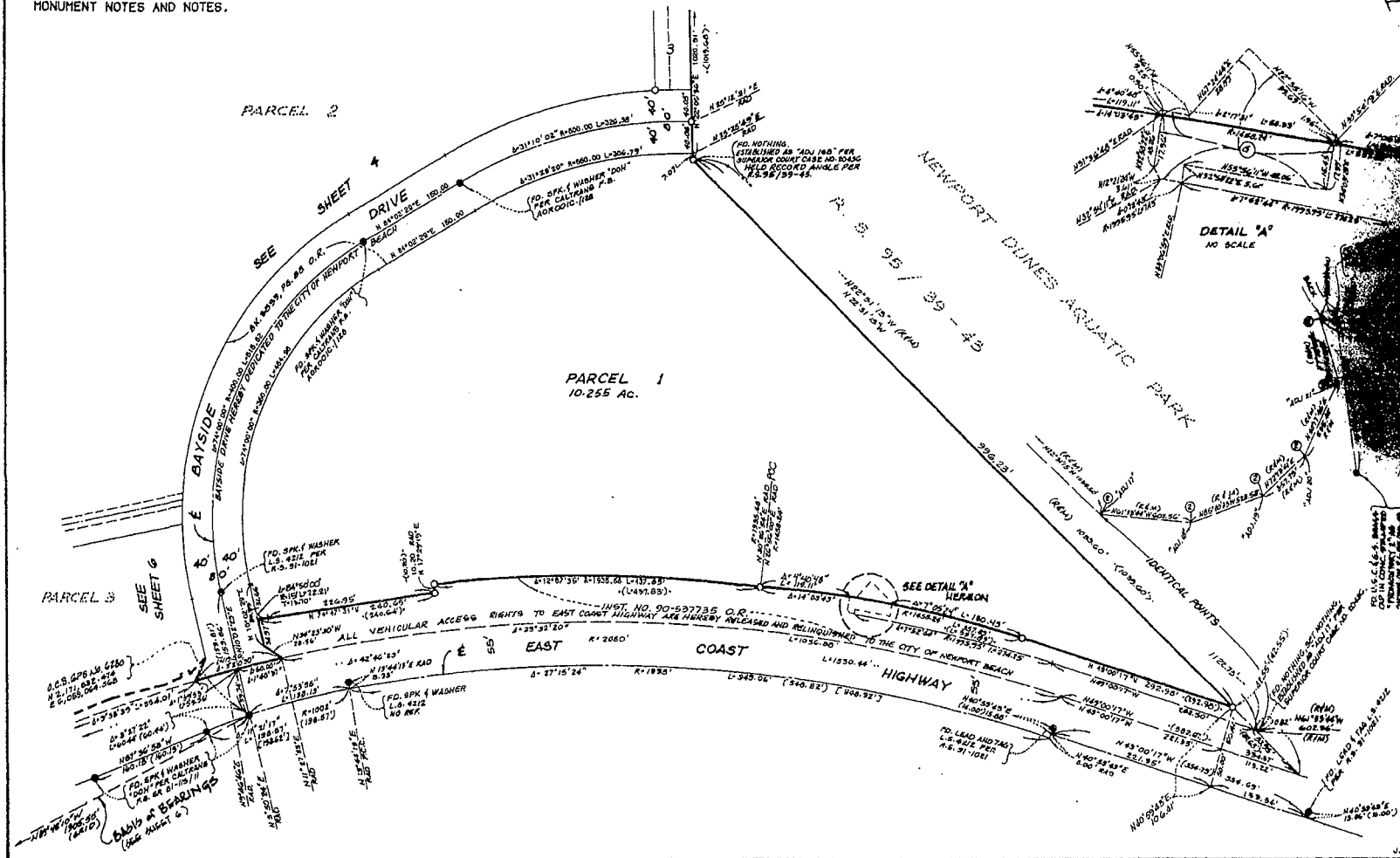


NOTE:

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE  
STATE OF CALIFORNIA.

ADAMS-STREETER CIVIL ENGINEERS, INC.  
JANUARY

JAN A. ADAMS R.C.E. 21687



**NOTE:**

PARCEL MAP NO. 93-111

ADAMS-STREETER CIVIL ENGINEERS, INC.  
JANUARY

JAN A. ADAMS R.C.E. 21687

SEE SHEET 5

PARCEL 3

PARCEL 2  
12.732 AC.

SEE SHEET 3

PARCEL 1

R.S. 95/39-43  
NEWPORT DUNES AQUATIC PARK

# PARCEL MAP NO. 93-111

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE  
STATE OF CALIFORNIA.

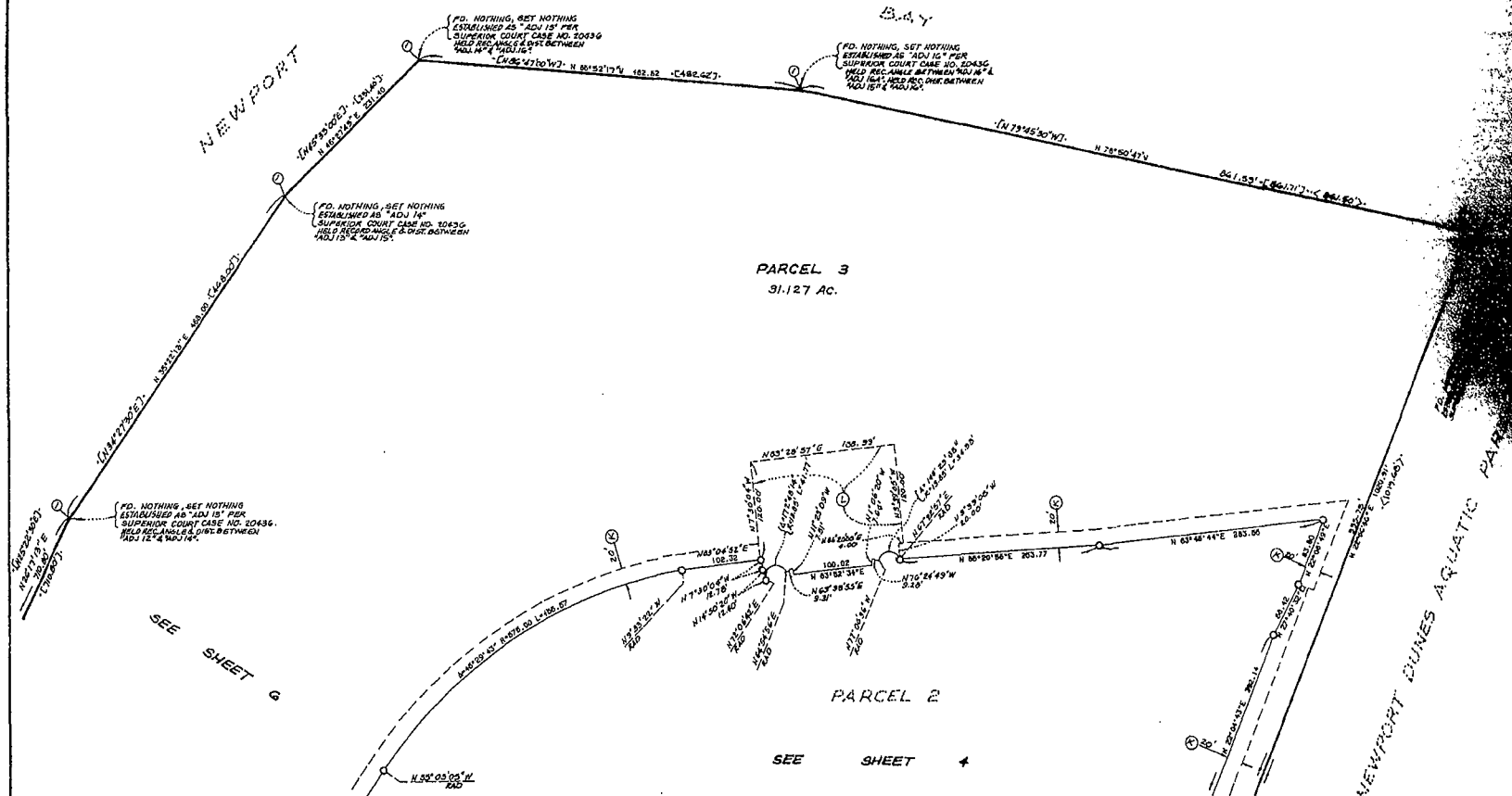
ADAMS-STREETER CIVIL ENGINEERS, INC. JAN. A. ADAMS R.C.E. 21567  
JANUARY, 1993

SHEET 5 OF 6 SHEETS  
SCALE 1" = 80'  
4 PARCELS  
50.342 ACRES  
DATE OF SURVEY:  
JANUARY, 1993

NOTE:

SEE SHEET 2 FOR BASIS OF BEARINGS, INDEX MAP,  
MONUMENT NOTES AND NOTES.

BACK



278 45

SHEET 5 OF 6 SHEETS  
SCALE 1" = 80'  
4 PARCELS  
55.362 ACRES  
DATE OF SURVEY:  
JANUARY, 1993

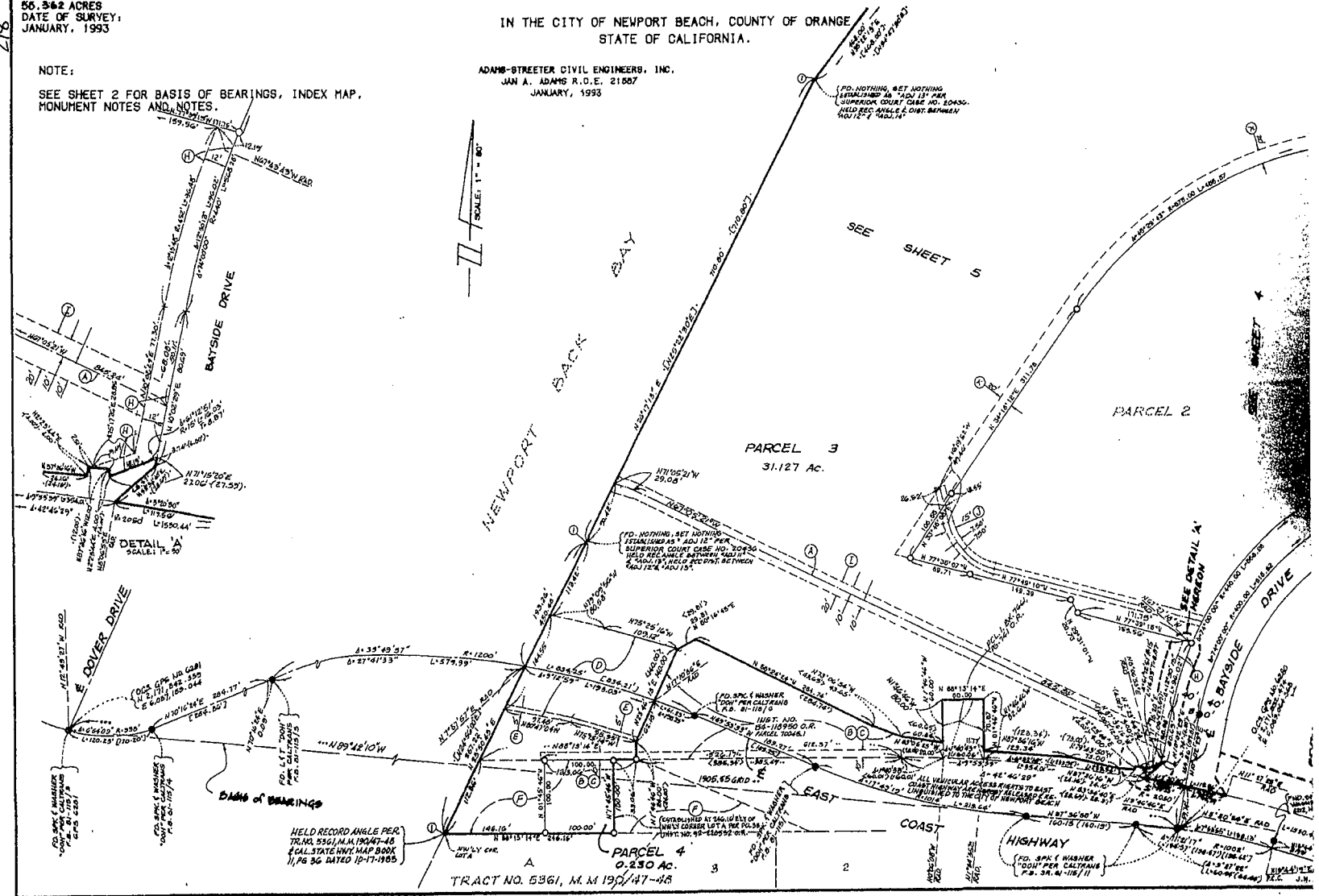
# PARCEL MAP NO. 93-111

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE  
STATE OF CALIFORNIA.

ADAMS-STREETER CIVIL ENGINEERS, INC.  
JAN A. ADAMS R.O.E. 21887  
JANUARY, 1993

NOTE:

SEE SHEET 2 FOR BASIS OF BEARINGS, INDEX MAP,  
MONUMENT NOTES AND NOTES.



HELD RECORD ANGLE PER  
TR. NO. 5361, M.M. 192-47-48  
FULL STATE INT. MAP BOOK  
11, PG 36 DATED 12-17-1985

TRACT NO. 5361, M.M. 192-47-48



TRACTS OR PARCEL MAPS

Sheet 1 of 2

RECORDING REQUESTED BY

JAN A. ADAMS  
(Engineer or Surveyor)

DOC # 94-0380365  
06-JUN-1994 08:45 AM

WHEN RECORDED MAIL TO:

Recorded in Official Records  
of Orange County, California  
Lee A. Branch, County Recorder  
Page 1 of 2 Fees: \$ 8.00  
Tax: \$ 0.00

ADAMS STREETER CIVIL ENGINEERS

15 CORPORATE PARK

IRVINE, CALIFORNIA 92714

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRACT OR PARCEL MAP  
CERTIFICATE OF CORRECTION

CITY OF NEWPORT BEACH  
COUNTY OF ORANGE  
STATE OF CALIFORNIA

2  
R  
1

The following corrections or additions are hereby made to PARCEL  
MAP NO. 93-11 filed in book 278, Page(s) 40 THRU 45 of  
PARCEL MAPS in the office of the Recorder of Orange County:

ON SHEET 4 OF 6 ALONG THE EASTERLY LINE OF PARCEL 1 THAT BEARS  
N 22°31'15" W THE FOLLOWING CORRECTIONS ARE MADE:

- 1.) THE DISTANCE 998.42' (BELOW THE DISTANCE OF  
1039.60) IS CORRECTED TO READ 996.23'.

Engineer's/Surveyor's Certificate

I hereby certify that I prepared this Certificate of Correction or it was prepared under my direction on \_\_\_\_\_, 19\_\_\_\_ and the changes shown hereon are as provided for in Section 66469 of the Subdivision Map Act.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Print Name Jan A. Adams  
R.C.E. No. 21687  
Registration Expires 9/30/97



City Engineer's Certificate

I hereby certify that I have examined this Certificate of Correction and the only changes made are those set forth in Section 66469 of the Subdivision Map Act.

Dated this 3<sup>RD</sup> day of May, 1994.

Print Name Donald L. Webb, Jr.  
R.C.E. No. 16791  
City of Newport Beach  
Registration Expires 6/30/97

County Surveyor's Certificate

This Certificate of Correction is acceptable for recordation this

23<sup>RD</sup> day of May, 1994

John Canas Michael Blinnow for  
County Surveyor



Listed below are the present fee owners of property affected by the correction or addition.

De Anza Newport Mobile Estates,  
a Limited Partnership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECORDED AT THE REQUEST OF  
CHICAGO TITLE COMPANY

Recorded in Official Records, Orange County

Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:



30.00

2004000762949 01:09pm 08/23/04

121 4 G01 9

0.00 0.00 0.00 0.00 24.00 0.00 0.00 0.00

Steeffel, Levitt & Weiss  
550 South Hope Street  
Suite 1665  
Los Angeles, CA 90071  
Attention: Wendy G. Glenn, Esq.

Space above this Line for Recorder's Use

GRANT OF EASEMENT

FOR VALUABLE CONSIDERATION, BAYSIDE MHP LLC, a California limited liability company ("Grantor"), as owner of that certain real property more particularly described in Exhibit A (the "Servient Property") hereby grants to BAYSIDE VILLAGE MARINA LLC, a California limited liability company and its successors and assigns ("Grantee"): (1) for so long as there is no direct access from the Roadway (as defined below) to the adjacent public street known as Bayside Drive, a non-exclusive, blanket easement (the "Access Easement") appurtenant to the Roadway (dominant estate) for the purposes of vehicular and pedestrian ingress and egress to and from the Roadway (dominant estate), which is a roadway located on such real property as described in Exhibit B (the "Roadway") along, over and across the currently existing roadways and walkways on the Servient Property; and (2) a non-exclusive easement (the "Walkway Easement") appurtenant to the real property described in Exhibit C (dominant estate) for vehicular and pedestrian ingress and egress across that portion of the Servient Property which is a walkway along the northern boundary of the Servient Property, as depicted in Exhibit D. The Access Easement and the Walkway Easement are collectively referred to as the "Easements".

In exercising its rights under the Easements, Grantee shall do nothing that will interfere in any material way with the Servient Property. Grantee further agrees that it shall not open or create a direct access from Bayside Drive to the Roadway without the prior written consent of Grantor, provided, that in the event that Grantee causes such direct access to be created or opened from Bayside Drive to the Roadway (whether approved by Grantor or not), the Access Easement shall be terminable at the option of Grantor in its sole and absolute discretion, by written notice to Grantee.

Grantee shall indemnify, defend and hold harmless Grantor from and against any and all cost, liability or expense arising from (a) any damage to any improvements of Grantor arising from the exercise by Grantee of its rights under the Easements and/or (b) any claims that may be asserted against Grantor by any party arising from Grantee's (or its invitees or permittees) exercise of its rights under the Easements, or the maintenance of the Easements on the Servient Property.

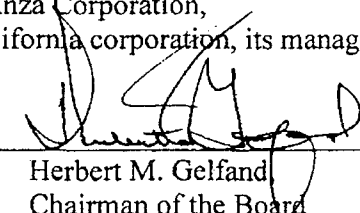
**IN WITNESS WHEREOF**, Grantor and Grantee have executed and delivered this Grant of Easement as of August 19, 2004.

**GRANTOR:**

BAYSIDE MHP LLC,  
a California limited liability company

By: Gelfand Properties Bayside LLC,  
a California limited liability company,  
its manager

By: De Anza Corporation,  
a California corporation, its manager

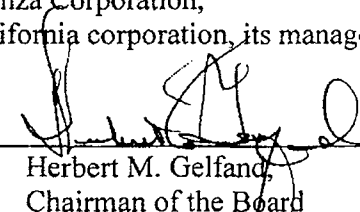
By:   
Herbert M. Gelfand  
Chairman of the Board

**GRANTEE:**

BAYSIDE VILLAGE MARINA LLC,  
a California limited liability company

By: Gelfand Properties Bayside LLC,  
a California limited liability company,  
its manager

By: De Anza Corporation,  
a California corporation, its manager

By:   
Herbert M. Gelfand  
Chairman of the Board

STATE OF CALIFORNIA

)  
) ss.  
)

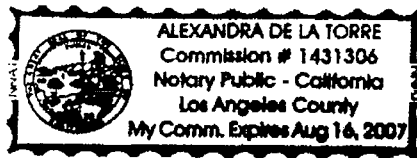
COUNTY OF LOS ANGELES

On August 19, 2004 before me, Alexandra Delatorre, Notary Public, personally appeared Herbert M. Gelfand, ~~personally known or~~ proved to me on the basis of satisfactory evidence, to be the person ~~(s)~~ whose name ~~(s)~~ is subscribed to the within instrument and acknowledged to me that ~~he~~ she ~~they~~ executed the same in ~~his~~ her ~~their~~ authorized capacity(ies), and that by ~~his~~ her ~~their~~ signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

Witness my hand and official seal.

Alexandra Delatorre  
Notary Public

(Seal)

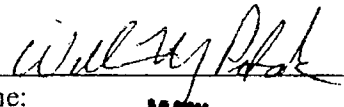


**CONSENT TO RECORDING AND SUBORDINATION**

American General Life and Accident Insurance Company, a Tennessee corporation ("Lender"), as beneficiary under the Deed of Trust recording concurrently herewith, hereby approves and consents to the recording of this Grant of Easement and subordinates the lien of said Deed of Trust to the Grant of Easement to which this instrument is attached and to each and every provision thereof and to all easements provided therein.

AMERICAN GENERAL LIFE AND  
ACCIDENT INSURANCE COMPANY, a  
Tennessee corporation

By: AIG Global Investment Corp., a  
New Jersey corporation, its investment  
advisor

By:   
Name: \_\_\_\_\_  
Title: **William Petak**  
**Managing Director**

**EXHIBIT A**  
**LEGAL DESCRIPTION OF SERVIENT PROPERTY**

Parcel 2 of Parcel Map No. 93-111, in the City of Newport Beach, County of Orange, State of California, as shown on a Map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction Recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California.

**EXHIBIT B**  
**LEGAL DESCRIPTION OF ROADWAY (DOMINANT PROPERTY)**

THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 93-111, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 278, PAGES 40 THROUGH 45, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 3, DISTANT THEREON NORTH 22° 09' 15", 500.75 FEET FROM THE INTERSECTION OF SAID SOUTHEASTERLY LINE AND THE CENTERLINE OF BAYSIDE DRIVE, 80.00 FEET WIDE, AS SHOWN ON SAID MAP;

THENCE, PERPENDICULAR TO SAID SOUTHEASTERLY LINE OF PARCEL 3, NORTH 67° 50' 45" WEST, 45.01 FEET TO THE SOUTHEASTERLY LINE OF PARCEL 2 OF SAID PARCEL MAP NO. 93-111.

EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL 3 INCLUDED WITHIN A STRIP OF LAND, 24.50 FEET WIDE, THE SOUTHEASTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 3, DISTANT THEREON NORTH 22° 09' 15" EAST, 48.26 FEET FROM THE INTERSECTION OF SAID SOUTHEASTERLY LINE AND THE CENTERLINE OF BAYSIDE DRIVE, 80.00 FEET WIDE, AS SHOWN ON SAID MAP;

THENCE, ALONG SAID SOUTHEASERLY LINE, NORTH 22° 09' 15" EAST, 452.49 FEET.



## **EXHIBIT C**

### **LEGAL DESCRIPTION OF GRANTEE PROPERTY (DOMINANT PROPERTY)**

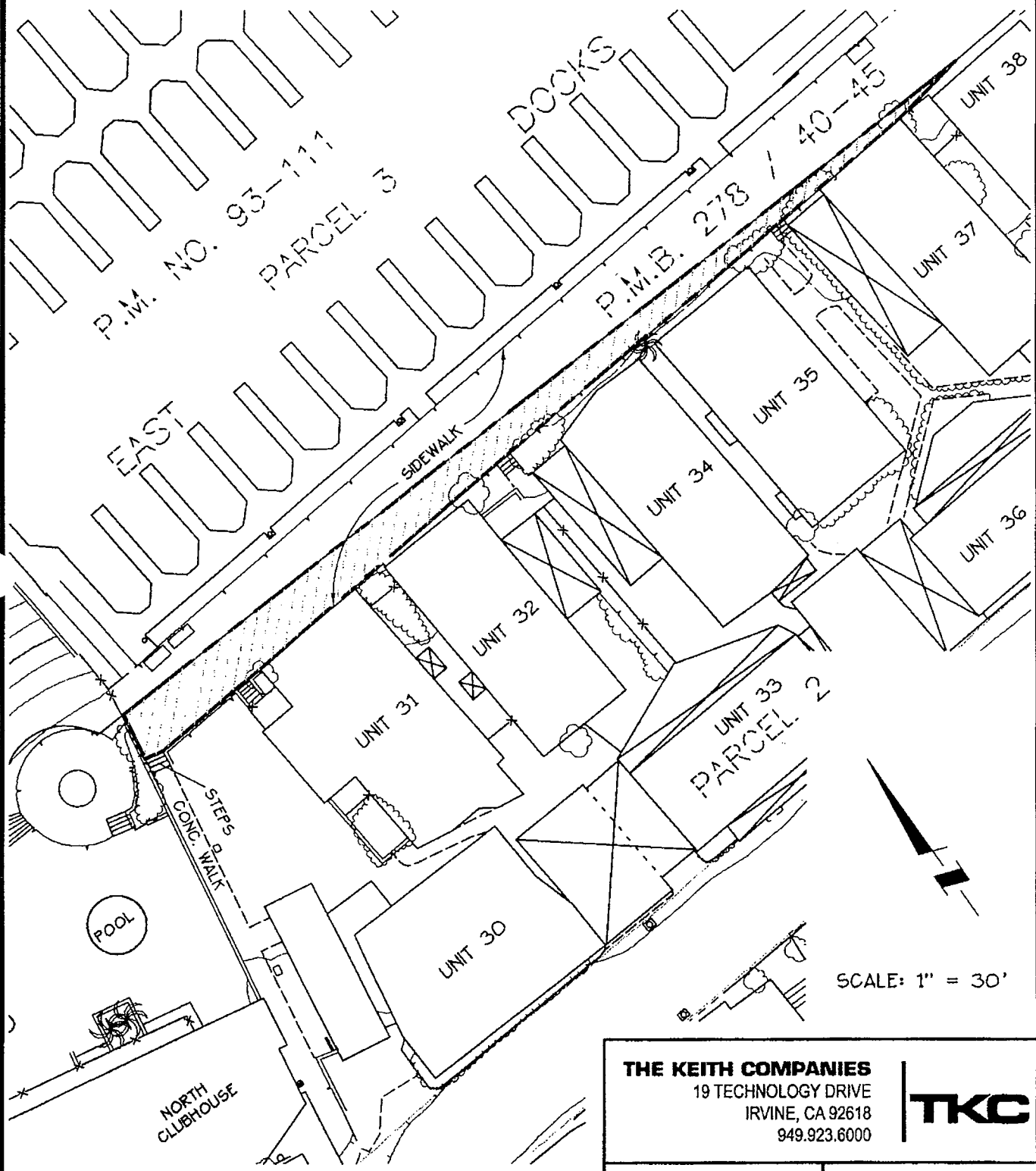
Parcel 3 of Parcel Map No. 93-111, in the City of Newport Beach, County of Orange, State of California, as shown on a Map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction Recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California.

# EXHIBIT "D"

SHEET 1 OF 1

THAT PORTION OF THE SIDEWALK AREA WITHIN PARCEL 2 OF P. M. NO. 93-111, P.M.B. 278 / 41-45, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA

## SIDEWALK AREA



I CERTIFY UNDER PENALTY OF PERJURY THAT THE ILLEGIBLE PORTION OF THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED DOES READ AS FOLLOWS:

NAME OF NOTARY: ALEXANDRA DE LA TORRE

DATE COMMISSION EXPIRES: AUG 16, 2007

COMMISSION NUMBER: 1431306


VENDOR NUMBER: NNAI

COUNTY WHERE BOND IS FILED: LOS ANGELES

EXECUTED AT IRVINE, CALIFORNIA

Date: 8/23/04

Chicago Title Company

  
\_\_\_\_\_

# **APPENDIX F**

**Site Name:**

Back Bay Landing Project

Inquiry Number: 2547533.7  
07/28/2009

## The EDR Environmental LienSearch™ Report



440 Wheelers Farms Road  
Milford, CT 06461  
800.352.0050  
[www.edrnet.com](http://www.edrnet.com)

## EDR Environmental LienSearch™ Report

The EDR Environmental LienSearch Report provides results from a search of available current land title records for environmental cleanup liens and other activity and use limitations, such as engineering controls and institutional controls.

A network of professional, trained researchers, following established procedures, uses client supplied address information to:

- search for parcel information and/or legal description;
- search for ownership information;
- research official land title documents recorded at jurisdictional agencies such as recorders' offices, registries of deeds, county clerks' offices, etc.;
- access a copy of the deed;
- search for environmental encumbering instrument(s) associated with the deed;
- provide a copy of any environmental encumbrance(s) based upon a review of key words in the instrument(s) (title, parties involved, and description); and
- provide a copy of the deed or cite documents reviewed.

***Thank you for your business.***  
Please contact EDR at 1-800-352-0050  
with any questions or comments.

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# EDR Environmental LienSearch™ Report

## TARGET PROPERTY INFORMATION

### ADDRESS

Back Bay Landing Project  
East Coast Highway and Bayside Drive  
Newport Beach, CA 92660

### RESEARCH SOURCE

Source 1: Orange County

### PROPERTY INFORMATION

#### **Deed 1:**

Type of Deed:	Grant Deed
Title is vested in:	Bayside Village Marina LLC, a California limited liability company
Deed Dated:	08/19/2004
Deed Recorded:	10/22/2004
Instrument:	2004000955355

**Legal Description:** PARCEL 3 OF PARCEL MAP NO. 93-111, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AND BEING MORE FULLY DESCRIBED IN INSTRUMENT NO. 2004000955355 IN THE DEED RECORDS OF ORANGE COUNTY, CALIFORNIA.

**Legal Current Owner:** Bayside Village Marina LLC

**Property Identifiers:** 44013260

## EDR Environmental LienSearch™ Report

### ENVIRONMENTAL LIEN

Environmental Lien: Found ☐ Not Found ☒

If found:

1<sup>st</sup> Party:

2<sup>nd</sup> Party:

Dated:

Recorded:

Book:

Page:

Docket:

Volume:

Instrument:

Comments:

Miscellaneous:

### OTHER ACTIVITY AND USE LIMITATIONS (AULs)

Other AUL's: Found ☐ Not Found ☒

If found:

1<sup>st</sup> Party:

2<sup>nd</sup> Party:

Dated:

Recorded:

Book:

Page:

Docket:

Volume:

Instrument:

Comments:

Miscellaneous:



RECORDING REQUESTED BY  
CHICAGO TITLE COMPANY  
AND WHEN RECORDED MAIL TO

BAYSIDE VILLAGE MARINA LLC  
6310 SAN VICENTE BLVD., SUITE  
560  
LOS ANGELES, CA. 90048  
ATTENTION SHEILA M. SCHRANK

Recorded in Official Records, Orange County

Tom Daly, Clerk-Recorder

10/22/04 11:36am 27.00

2004000955355 11:36am 10/22/04

113 21 002 8

0.00 0.00 0.00 0.00 21.00 0.00 0.00 0.00

Escrow No. 43803401 - M33  
Order No. 43803401-M07

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THIS GRANT DEED IS BEING RE-RECORDED TO CORRECT THE GRANTEE.

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

CPFR4 - 11/12/00

10/22/04 11:36am

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY  
**CHICAGO TITLE COMPANY**  
AND WHEN RECORDED MAIL TO:

21.00

2004000762948 01:09pm 08/23/04

121 4 002 6  
0.00 0.00 0.00 0.00 15.00 0.00 0.00 0.00

Steeffel, Levitt & Weiss  
550 South Hope Street  
Suite 1665  
Los Angeles, CA 90071  
Attention: Wendy G. Glenn, Esq.

MAIL TAX STATEMENTS TO:

BAYSIDE VILLAGE MARINA LLC  
~~Bayside Marina LLC~~  
6310 San Vicente Boulevard  
Suite 560  
Los Angeles, CA 90048  
Attention: Sheila M. Sohrank

Space above this Line for Recorder's Use

Transfer Tax \$ 0.00 pursuant to California Revenue & Taxation Code Section 62(a)(2).

GRANT DEED

A.P.N.: Portion of 440-132-50

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DE ANZA BAYSIDE VILLAGE, LLC, a California limited liability company ("Grantor"), hereby GRANTS to ~~BAYSIDE MARINA LLC~~, a California limited liability company ("Grantee"), all that real property situated in the County of Orange, State of California, described on Exhibit A attached hereto, together with all right, title and interest in and to all buildings, structures and other facilities and improvements located thereon and owned by the Grantor, and all easements, rights of way, air, mineral and water rights, development rights, appurtenances, rights and privileges appertaining to the said real property, BUT RESERVING THEREFROM the appurtenant easements in favor of Grantor and its successors and/or assigns as described in Exhibit B attached hereto, SUBJECT TO all matters of record and all matters which would be disclosed by an accurate survey of said real property.

\*BAYSIDE VILLAGE MARINA

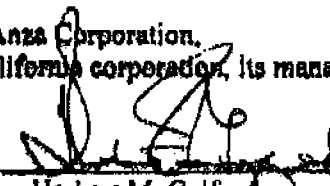
In Witness Whereof, Grantor has caused this instrument to be executed as of this  
19 day of August, 2004.

**GRANTOR:**

**DE ANZA BAYSIDE VILLAGE, LLC,**  
a California limited liability company

By: **Gelfand Properties, LLC,**  
a California limited liability company, its manager

By: **De Anza Corporation,**  
a California corporation, its manager

By:   
Herbert M. Gelfand,  
Chairman of the Board

**EXHIBIT A**

**[Legal Description]**

Parcel 3 of Parcel Map No. 93-111, in the City of Newport Beach, County of Orange, State of California, as shown on a Map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction Recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California.

**EXHIBIT B**

**[Legal Description of Reserved Easements]**

A non-exclusive easement appurtenant to Parcel 2 of Parcel Map No. 93-111 for the recreational use of that portion of Parcel 3 of Parcel Map No. 93-111 designated by Note K, in the City of Newport Beach, County of Orange, State of California, as shown on a Map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction Recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California.

A non-exclusive easement appurtenant to Parcel 2 of Parcel Map No. 93-111 for the recreational use of that portion of Parcel 3 of Parcel Map No. 93-111 designated by Note L, in the City of Newport Beach, County of Orange, State of California, as shown on a Map filed in Book 278, Pages 40 to 45 inclusive of Parcel Maps, records of Orange County, California, as corrected by that certain Certificate of Correction Recorded June 6, 1994 as Instrument No. 94-380365 of Official Records of Orange County, California.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ss:

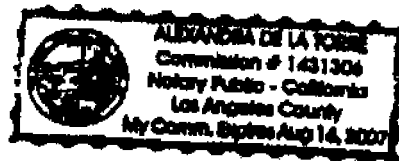
On August 19, 2004, before me Alexandra Delatorre, a notary public, personally appeared Herbert M. Gelfand, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Alexandra Delatorre

Notary Public  
State of California

(seal)



I CERTIFY UNDER PENALTY OF PERJURY THAT THE ILLEGIBLE PORTION OF THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED DOES READ AS FOLLOWS:

NAME OF NOTARY: ALEXANDRA DE LA TORRE

DATE COMMISSION EXPIRES: AUG 16, 2007

COMMISSION NUMBER: 1431306

VENDOR NUMBER: NNAI

COUNTY WHERE BOND IS FILED: LOS ANGELES

EXECUTED AT IRVINE, CALIFORNIA

Date: 8/23/04

Chicago Title Company

  
\_\_\_\_\_

**Attachment A**

The real property located at 300 East Coast Highway, in the City of Newport Beach, County of Orange, State of California (the "Property"), being transferred by De Anza Bayside Village, LLC, a California limited liability company ("Grantor"), to Bayside Marina LLC, a California limited liability company ("Grantee"), is excluded from reassessment by reason of California Revenue & Taxation Code Section 62(a)(2). Section 62(a)(2) provides that a "Change in ownership shall not include:"

Any transfer . . . between legal entities . . . that results solely in a change in the method of holding title . . . and in which proportional ownership interests of the transferors and transferees, whether represented by stock . . . or otherwise . . . remain the same after the transfer.

Grantor is the sole member of Grantee. As the sole member, Grantor owns one-hundred percent (100%) of the beneficial interests in the Grantee and one-hundred percent (100%) of the beneficial interests in the Property.

Since Grantor's proportional interest in the Property remains the same before and after the transfer, and the transfer results solely in a change in the method of holding title to the Property, the transfer does not constitute a "change in ownership." As a result, the Property is excluded from reassessment pursuant to Revenue & Taxation Code Section 62(a)(2).